

1973 Assembly Bill 569

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CHAPTER 116 , Laws of 1973

AN ACT to repeal 218.12; to renumber 218.10 and 218.11; and to create 101.90 to 101.96, 218.10 and 218.14 to 218.17 of the statutes, relating to licensing of mobile

home manufacturers, warranties on new mobile homes, granting rule-making authority and providing a penalty.

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

SECTION 1. 101.90 to 101.96 of the statutes are created to read:

101.90 Purpose. The purpose of this law is to establish uniform construction standards, inspection procedures and licensing of manufacturers of mobile homes and to promote interstate uniformity and the ability to enter into reciprocal agreements with other states and the federal government.

101.91 Definition. In ss. 101.90 to 101.96, "mobile home" has the meaning designated in s. 218.10 (2).

101.92 Departmental powers and duties. The department:

(1) Shall adopt, administer and enforce rules for the safe and sanitary design and construction of mobile homes manufactured, distributed, sold or offered for sale in this state.

(2) Shall license all manufacturers desiring to sell or distribute for sale mobile homes in this state.

(3) Shall review annually the rules adopted under ss. 101.90 to 101.96, and may revise rules upon recommendation by the advisory committee appointed under s. 101.96.

(4) Shall provide for announced or unannounced inspection of manufacturing facilities, processes, fabrication and assembly of mobile homes to ensure compliance with the rules adopted under ss. 101.90 to 101.96.

(5) Shall establish standards for certification of inspection and testing agencies which shall include standards for in-plant inspection of manufacturing facilities, processes, fabrication and assembly of mobile homes and for issuance of or acceptance of a label of approval.

(6) May enter into reciprocal agreements with other states regarding the design, construction, inspection and labeling of mobile homes where the laws or rules of other states meet the intent of ss. 101.90 to 101.96 and where the laws or rules are actually enforced.

(7) Shall establish within the division of industrial safety and buildings a staff for the administration and enforcement of ss. 101.90 to 101.96.

(8) May revoke the license of any manufacturer who violates any of the provisions of ss. 101.90 to 101.96 or any rules promulgated thereunder.

101.93 Interdepartmental powers and duties. (1) The department of health and social services, in counsel with the department, shall adopt rules relating to plumbing in the design and construction of mobile homes. Such rules shall be consistent with s. 101.94 (1) and (2) and shall be reviewed annually.

(2) The department of health and social services, in counsel with the department, shall establish qualification requirements for and shall certify persons to perform inspections of the plumbing systems in mobile homes.

(3) The department of health and social services shall review plans and specifications for approval of plumbing systems in mobile homes.

101.94 Mobile home manufacturers, distributors and dealers: design and construction of 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 revision thereof in effect upon enactment of this section (1973), and further revisions adopted by the department and the department of health and social services. The department may establish standards in addition to those required under ANSI 119.1. This section applies to units manufactured or assembled after January 1, 1974.

(2) Each mobile home manufacturer shall submit to the department typical construction plans and specifications for review. The department shall, by its own inspectors whether inside or outside this state, perform sufficient inspections of manufacturing premises and manufactured units to ensure compliance with this section. The department may contract for inspection services, as provided in sub. (3), for inspections outside this state. Each mobile home, upon final assembly, shall display a label which shall be prescribed by and be available only from the department, or similar agency of other states where units are manufactured, providing reciprocal agreements have been executed and are effective between this state and such other states indicating that the mobile home meets the requirements of ss. 101.90 to 101.96 or the applicable laws of the state with which a reciprocal agreement has been executed. No mobile home which bears such label shall be required by any person to comply with any building, plumbing, heating or electrical code or any construction standards other than those promulgated under this section.

(3) The department shall inspect mobile homes manufactured in other states to be sold or intended to be sold in this state. For such out-of-state inspections, the department may contract for third party inspection by an inspection agency which has been approved by the department. The department shall monitor inspections conducted by third party inspection agencies to ensure the quality of those inspections. To obtain departmental approval, the inspection agency shall submit an application to the department accompanied by written materials evidencing that the agency is:

(a) Not under the jurisdiction or control of any manufacturer or supplier of the mobile home industry.

(b) Professionally competent to determine that a mobile home is in compliance with the requirements and standards of this section by having sufficient expertise to:

1. Inspect mobile homes.
2. Review mobile home plans and specifications.
3. Evaluate mobile home manufacturer quality control procedures.
4. Submit detailed reports regarding all of its findings to the department.

(4) No mobile home after once being approved to display the label prescribed shall be altered in any way by a manufacturer, factory branch, distributor, distributor branch, dealer or salesman without first obtaining an approval from the department or its authorized agent.

(5) Any person who violates this section shall forfeit not less than \$50 nor more than \$500 for each such violation, and may be required to indemnify the purchaser for damages caused. Each day the violation continues shall constitute a separate violation.

(6) Fees for review of plans, construction inspections, department labels and licensing of manufacturers shall be established by department rule and shall cover actual cost of the inspection and licensing programs.

(7) The department shall hear and decide petitions brought under ss. 101.90 to 101.96 in the manner provided under s. 101.02 (6) (e) to (i) and (8) for petitions concerning property.

101.95 Mobile 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 mobile homes in this state.

101.955 Notice, hearing and legislative review. All rules prescribed by any department under ss. 101.90 to 101.96 shall become effective only after notice, hearing and publication as provided under ss. 227.02 to 227.027. A copy of every rule or amendment to a rule proposed by an agency under ss. 101.90 to 101.96 shall be forwarded to the speaker of the assembly and to the president of the senate for referral to and review by the appropriate standing committee of the assembly and of the senate as determined by the respective presiding officer. The standing committee shall, within 60 days from the receipt of such proposed rule or amendment, approve or disapprove any such proposed rule or amendment. Failure of the standing committee to disapprove any proposed rule or amendment within the review time shall constitute approval thereof. If the standing committees of both the senate and the assembly disapprove any proposed rule or amendment the agency shall not adopt the proposed rule or amendment. Only in the absence of a disapproval the agency shall proceed with the adoption of the rule or amendment in accordance with this chapter. This section shall not apply to emergency rules issued under s. 227.027.

101.96 Advisory committee. The department shall appoint an advisory committee of 5 members to review the rules and standards for mobile homes and recommend changes. The committee shall be composed of 2 members representing the mobile home industry, 2 public members and one member from the department. The committee shall submit an annual report to the department and to the department of health and social services.

SECTION 2. 218.10 and 218.11 of the statutes are renumbered 218.11 and 218.12.

SECTION 3. 218.10 of the statutes is created to read:

218.10 Definitions. In this subchapter:

(1) "Delivery date" means the date on which a mobile home is physically delivered to the site chosen by the mobile home owner.

(2) "Mobile home" means a vehicle designed to be towed as a single unit or 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, including the plumbing, heating and electrical systems and all appliances and all other equipment carrying a manufacturer's warranty.

(3) "Mobile 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 mobile homes or who is engaged wholly or in part in the business of selling mobile homes, whether or not the mobile homes are owned by him, but does not include:

(a) A receiver, trustee, administrator, executor, guardian or other person appointed by or acting under the judgment or order of any court.

(b) Any public officer while performing his official duty.

(c) Any employe of a person enumerated in par. (a) or (b).

(d) Any lender as defined in s. 421.301 (22).

(e) A person transferring a mobile home registered in his own name and used for his personal, family or household purposes, if the transfer is an occasional sale and is not part of the business of the transferor.

(4) "Mobile home manufacturer" means any person within or without this state who manufactures or assembles mobile homes for sale in this state.

(5) "Mobile home owner" means any person or lessee thereof who purchases a mobile home primarily for use for personal, family or household purposes.

(6) "Mobile home salesperson" means any person who is employed by a mobile home manufacturer or dealer to sell or lease mobile homes.

(7) "New mobile home" means a mobile home which has never been occupied, used or sold for personal or business use.

(8) "Used mobile home" means a mobile home which has previously been occupied, used or sold for personal or business use.

SECTION 4. 218.12 of the statutes is repealed.

SECTION 5. 218.14 to 218.17 of the statutes are created to read:

218.14 Warranty and disclosure. (1) A one-year written warranty is required for every new mobile home sold or leased by a mobile home manufacturer, dealer or salesperson in this state, and for every new mobile 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 customer in this state. The warranty shall contain the following terms:

(a) That the mobile home meets those standards prescribed by law or administrative rule of the department of industry, labor and human relations, which are in effect at the time of its manufacture.

(b) That the mobile 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 of industry, labor and human relations.

(c) 1. That the mobile home manufacturer and dealer shall take corrective action for defects which become evident within one year from the delivery date and as to which the mobile 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 mobile home manufacturer and dealer shall make the appropriate adjustments and repairs, within 30 days after notification of the defect, at the site of the mobile home without charge to the mobile home owner. If the dealer makes the adjustment, the 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, that the repair, replacement, substitution or alteration has not restored the mobile home to the condition in which it was warranted except for reasonable wear and tear, such failure shall be deemed a violation of the warranty and the mobile 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 his assignee notwithstanding that the additional repair may occur after the expiration of the warranty period.

(d) That if during any period of time after notification of a defect, the mobile home is uninhabitable, as defined by rule of the department of industry, labor and human relations, 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 his 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 mobile home as well as to the dealer who sells or leases the mobile home to the customer, and shall be in addition to any other rights and privileges which the customer 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 unenforceable and void.

(4) The transfer of a mobile home from one owner or lessee to another during the effective period of the warranty does not terminate the warranty, and subsequent owners or lessees shall be entitled to the full protection of the warranty for the duration of the warranty period as if the original owner or lessee had not transferred the mobile home.

218.15 Sale or lease of used mobile homes. In the sale or lease of any used mobile home, the sales invoice or lease agreement shall contain the point of manufacture of the used mobile home, the name of the manufacturer and the name and address of the previous owner.

218.16 Departmental rules. The department of industry, labor and human relations shall promulgate rules and establish standards necessary to carry out the purposes of ss. 218.14 and 218.15.

218.165 Jurisdiction and venue over out-of-state manufacturers. (1) The importation of a mobile home for sale in this state by an out-of-state manufacturer is deemed an irrevocable appointment by such out-of-state manufacturer of the secretary of state to be his 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 mobile home into this state.

(2) The secretary of state 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 secretary of state shall keep a record of all such processes and notices, which record shall show the day and hour of service.

218.17 Penalties. (1) Any person who violates any provision of ss. 218.14 to 218.16, or any rule promulgated under ss. 218.14 to 218.16, may be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

(2) In any court action brought by the department of industry, labor and human relations 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 mobile home manufacturer, dealer or salesperson by an aggrieved customer. If judgment is rendered for the customer based on an act or omission by the manufacturer, dealer or salesperson, which constituted a violation of this subchapter, the plaintiff shall recover actual and proper attorney's fees in addition to costs otherwise recoverable.

SECTION 6. Cross reference changes. Wherever the reference to section "218.10" appears in sections 342.12 (3) (a), 342.18 (4) (a) and 426.202 (3) of the statutes, the reference "218.11" is substituted.

SECTION 7. Program responsibilities. (1) In the list of program responsibilities specified for the department of industry, labor and human relations under section 15.221 (intro.) of the statutes, insert reference to "subch. VI of ch. 218".

(2) In the list of program responsibilities specified for the department of health and social services in section 15.191 of the statutes, insert reference to "101.93".

SECTION 8. Effective date. This act shall take effect on the 121st day after publication.
