

1987 Senate Bill 432

Date of enactment: April 23, 1988
Date of publication: May 2, 1988

1987 Wisconsin Act 396 (Vetoed in Part)

AN ACT ~~to amend 101.055 (4) (a), and to create 101.026, 146.021 and 146.145 of the statutes, relating to the~~ management of asbestos in schools and buildings occupied by public employees, granting rule-making authority, making appropriations and providing a penalty. **Vetoed in Part**

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

Vetoed in Part

~~SECTION 1. 101.026 of the statutes is created to read:~~

~~101.026 Asbestos management. (1) In this section:~~

~~(a) "Asbestos" has the meaning given in s. 140.06 (1) (a).~~

~~(b) "Asbestos abatement activity" has the meaning given in s. 140.06 (1) (b).~~

~~(c) "Asbestos-containing material" has the meaning given in s. 140.06 (1) (c).~~

~~(d) "Public employe" means any person employed by the state.~~

~~(2) The department shall promulgate rules to do all of the following:~~

~~(a) Establish building inspection requirements and procedures to protect public employes from asbestos~~

~~hazards in every building which is state-owned or state-leased.~~

Vetoed in Part

~~(b) Regulate asbestos abatement activities in every building which is state-owned or state-leased except any school subject to the rules established under s. 146.145.~~

~~(c) Establish an inventory of the location of all buildings owned or leased by each local governmental unit.~~

~~(d) Require a management plan for asbestos-containing material in every building which is state-owned or state-leased and which contains asbestos-containing material.~~

~~(3) Any person who violates any rule promulgated under this section shall forfeit not less than \$100 nor more than \$1,000 for each violation. Each violation~~

**Vetoed
in Part**

constitutes a separate offense and each day of continued violation is a separate offense.

SECTION 2. 101.055 (4) (a) of the statutes is amended to read:

101.055 (4) (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) or s. 101.026 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 employe representatives and post a statement at the place where notices to employes are normally posted. The posted statement shall summarize the application, specify a place where employes may examine the application and inform employes of their right to request a hearing. Upon receipt of a written request by the employer, an affected employe or a public employe 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.

SECTION 3. 146.021 of the statutes is created to read:

146.021 Asbestos testing fees. Notwithstanding s. 36.25 (11) (f), the state laboratory of hygiene board shall impose a fee sufficient to pay for any asbestos testing services which it provides.

SECTION 4. 146.145 of the statutes is created to read:

146.145 Asbestos management. (1) In this section:

- (a) "Asbestos" has the meaning given in s. 140.06 (1) (a).
- (b) "Asbestos abatement activity" has the meaning given in s. 140.06 (1) (b).
- (c) "Asbestos-containing material" has the meaning given in s. 140.06 (1) (c).
- (d) "School" has the meaning given under s. 118.257 (1) (c).

(2) The department shall promulgate rules to do all of the following:

- (a) Establish building inspection requirements and procedures to protect students and employes from asbestos hazards in schools.

(b) Regulate asbestos abatement activities in schools.

(c) Establish requirements for the maintenance of asbestos-containing material in schools which contain asbestos-containing material.

(d) Establish priorities for asbestos abatement activities in schools which contain asbestos-containing materials.

(e) Require a management plan for asbestos-containing material in every school which contains asbestos-containing material.

(2m) No requirement under sub. (2) may be stricter than any requirement under 15 USC 2641 to 2654.

(3) A school district and any school which is not a public school may apply to the department for a variance to any standard adopted under this section under the provisions of s. 101.055 (4) (a) to (c).

(4) Any person who intentionally violates any rule promulgated under this section shall forfeit not less than \$100 nor more than \$1,000 for each violation. Each violation constitutes a separate offense and each day of continued violation is a separate offense.

~~SECTION 5. **Nonstatutory provisions.** The department of industry, labor and human relations shall submit the proposed rules required under section 101.026 (2) of the statutes, as created by this act, to the legislative council under s. 227.15 (1) no later than the first day of the 12th month beginning after the effective date of this subsection.~~

**Vetoed
in Part**

SECTION 6. **Appropriation changes.** (1) The appropriation to the department of health and social services under section 20.435 (1) (a) of the statutes, as affected by the acts of 1987, is increased by \$22,100 for fiscal year 1987-88 and by \$142,700 for fiscal year 1988-89 to fund 2.5 FTE GPR positions in the department of health and social services and the permanent property and supplies and services related to those positions for the purpose of administering the asbestos management program in schools.

~~(2) The appropriation to the department of industry, labor and human relations under section 20.445 (1) (a) of the statutes, as affected by the acts of 1987, is increased by \$172,575 for fiscal year 1988-89 to fund 4.0 FTE GPR positions in the department of industry, labor and human relations and the permanent property and supplies and services related to those positions for the purpose of administering the asbestos management program in state-owned and state-leased buildings.~~

**Vetoed
in Part**

SECTION 7. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15. 911 (2)	none	146. 021