

Chapter ILHR 35

INFECTIOUS AGENTS

ILHR 35.001 Purpose
ILHR 35.01 Definitions

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ILHR 35.001 Purpose. The purpose of this chapter is to identify, by administrative rules, those infectious agents relevant to the Employees' Right to Know Law, ss. 101.58 to 101.599, Stats.

History: Cr. Register, September, 1983, No. 333, eff. 10-1-83.

ILHR 35.01 Definitions. In this chapter:

(1) "Department" means the department of industry, labor and human relations.

(2) "Infectious agents" has the meaning set forth in s. 101.58 (2) (f), Stats.

Note: The statutory definition for infectious agents reads:

"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.

History: Cr. Register, September, 1983, No. 333, eff. 10-1-83.

ILHR 35.02 Infectious agents. Pursuant to ss. 101.58 (2) (f) and 101.598 (1), Stats., the bacterial, mycoplasmal, fungal, parasitic and viral agents and arboviruses specified in Tables 35.02-1, 35.02-2, 35.02-3, 35.02-4, 35.02-5, respectively, are designated as infectious agents.

TABLE 35.02-1

BACTERIAL AND MYCOPLASMA AGENTS

Bacillus anthracis
Brucella abortus^a
Brucella canis
Brucella melitensis^a
Brucella suis^a
Campylobacter fetus subspecies jejuni
Chlamydia psittaci^a
Chlamydia trachomatis
Clostridium botulinum
Clostridium tetani
Corynebacterium diphtheriae
Francisella tularensis
Legionella pneumophila
Legionella-like organisms
Leptospira interrogans — all serovars^a
Mycobacterium africanum
Mycobacterium asiaticum
Mycobacterium avium complex
Mycobacterium bovis^a
Mycobacterium chelonae
Mycobacterium fortuitum
Mycobacterium kansasii
Mycobacterium leprae^a
Mycobacterium malmoense

Mycobacterium marinum
Mycobacterium scrofulaceum
Mycobacterium simiae
Mycobacterium szulgai
Mycobacterium tuberculosis^a
Mycobacterium ulcerans
Mycobacterium xenopi
Neisseria gonorrhoeae
Neisseria meningitidis
Salmonella enteritidis (all serotypes)
Salmonella typhi
Shigella spp.^a
Treponema pallidum
Vibrio cholerae
Vibrio parahaemolyticus
Yersinia pestis

^aAgents of high virulence or contagion requiring special handling procedures.

TABLE 35.02-2

FUNGAL AGENTS

Blastomyces dermatitidis^a
Coccidioides immitis^a
Cryptococcus neoformans
Epidermophyton spp
Histoplasma capsulatum^a
Microsporium spp
Sporothrix schenckii
Trichophyton spp

^aAgents of high virulence or contagion requiring special handling procedures.

TABLE 35.02-3

PARASITIC AGENTS

Ancylostoma spp — hookworm
Ascaris spp
Coccidia spp
Cysticercus cellulosae
Echinococcus granulosus
Entamoeba spp
Enterobius spp
Fasciola spp
Giardia spp
Hymenolepsis nana
Leishmania spp
Necator spp — hookworm
Naegleria fowleri
Plasmodium spp

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Sarcocystis spp
Schistosoma spp
Strongyloides spp
Taenia solium
Toxoplasma spp^b
Trypanosoma spp

^bSpecial risk for pregnant females.

TABLE 35.02-4

VIRAL AND RICKETTSIAL AGENTS

Hepatitis Viruses; A, B, NonA-NonB^a
Herpesvirus group
 Herpesvirus hominis
 Cytomegalovirus^b
 Epstein-Barr virus
 Herpesvirus simiae^a
 Varicella virus
Human immunodeficiency viruses^c
Influenza viruses
Poliovirus
Poxviruses
 Cowpox virus
 Molluscum contagiosum virus
 Monkeypox virus
 Orf virus
 Paravaccinia virus
 Tanapox virus
 Vaccinia virus
 Variola major virus^a

Variola minor virus^a
Whitepox virus
Yaboapox virus
Rabies Virus^a
Rubella virus^b
Spongiform Encephalopathy Viruses
 Creutzfeld-Jacob agent
 Kuru agent
Rickettsial Agents
 Coxiella burnetii
 Rickettsia akari
 Rickettsia canada
 Rickettsia conori
 Rickettsia montana
 Rickettsia mooseri
 Rickettsia prowazeki^a
 Rickettsia rickettsii^a
 Rickettsia sennetsu
 Rickettsia tsutsugamushi
 Rochalimae quintana
 Rochalimae vinsonii
Vesicular Stomatitis Virus

^aAgents of high virulence or contagion requiring special handling procedures.

^bSpecial risk for pregnant females.

^cIncludes the virus HTLV-III, the virus which causes AIDS, Acquired Immuno-Deficiency Syndrome.

TABLE 35.02-5

ARBOVIRUSES

Absettarov	Bahig	Boraceia	Chenuda
Abu Hammad	Bakau	Botambi	Chikungunya
Acado	Baku	Boteke	Chilibre
Acara	Bandia	Bouboui	Chim
African Horsesickness	Bangoran	Bovine Ephemeral Fever	Chobar Gorge
African Swine Fever	Bangui	Bujaru	Clo Mor
Aguacate	Banui	Bunyamwera	Cocal
Aino	Banzi	Burg el Arab	Colorado Tick Fever ^c
Akabane	Barmah Forest	Bushbush	Congo-
Alenquer	Batai	Bussuquara	Crimean Hemorrhagic
Alfuy	Batama	Buttonwillow	Fever
Almpiwar	Batken	Bwamba	Corriparta
Amapari	Bauline	Cabassou	Cotia
Ananindeua	Bebaru	Cacao	D'Aguilar
Anhanga	Belem	Cache Valley	Dakar Bat
Anhembi	Belmont	Caimito	Dengue-2
Anopheles A	Benevides	California Encephalitis ^c	Dengue-3
Anopheles B	Benfica	Calovo	Dengue-4
Apeu	Bertioga	Candiru	Dera Ghazi Khan
Apoi	Bhanja	Cape Wrath	Dhori
Araguari	Bimbo	Capim	Dugbe
Aride	Bimiti	Caraparu	Ebola
Arkonam	Birao	Catu	Edge Hill
Aruac	Bluetongue-Indigenous	Chaco	Entebbe Bat
Arumowot	Bluetongue-Exotic	Chagres	Ep. Hem. Dis.
Aura	Bobaya	Chandipura	Eubenangee
Avalon	Bobia	Changuinola	Everglades
Bagaza	Bocas	Charleville	Eyach

Flanders	Kern Canyon	Mosqueiro	Ross River
Fort Morgan	Ketapang	Mossuril	Royal Farm
Frijoles	Keterah	Mount Elgon Bat	Russian Spring-Summer
Gamboia	Keuraliba	M'Poko	Encephalitis
Gan Gan	Keystone	Mucambo	Sabo Saboya
Garba	Khasan	Murray Valley	Sagiyama
Germiston	Klamath	Encephalitis	Sakhalin
Getah	Kokobera	Murutucu	Sakpa
Gomoka	Kolongo	Nariva	Salanga
Gordil	Koongol	Navarro	Salehabad
Gossas	Korean Hemorrhagic	Ndumu	Sandfly F. (Naples)
Grand Arbaud	Fever	Negishi	Sandfly F. (Sicilian)
Gray Lodge	Koutango	Nepuyo	Sandjimba
Great Island	Kowanyama	New Minto	Sango
Guajara	Kumlinge	Ngaingan	Santa Rosa
Guama	Kunjin	Nique	Sathuperi
Guaratuba	Kununurra	Nkolbisson	Saumarez Reef
Guaroa	Kwatta	Nodamura	Sawgrass
Gumbo Limbo	Kyasanur Forest Disease	Nola	Sebokele
Hanzalova	Kyzylagach	Northway	Seletar
Hart Park	La Crosse	Ntaya	Sembalam
Hazara	Lagos Bat	Nugget	Semliki Forest
Huacho	La Joya	Nyamanini	Sepik
Hughes	Landjia	Nyando	Serra Do Navio
Hypr	Langat	Okhotskiy	Shamonda
Ibaraki	Lanjan	Okola	Shark River
Icoaraci	Lassa	Olifantsvlei	Shuni
Ieri	Latino	Omsk Hemorrhagic Fever	Silverwater
Ilesha	Lebombo	O'Nyong Nyong	Simbu
Ilheus	Le Dantec	Oriboca	Simian Hem. Fev.
Ingwavuma	Lipovnik	Oropouche	Sindbis
Inhangapi	Llano Seco	Orungo	Sixgun City
Inini	Lokern	Ossa	Slovakia
Inkoo	Lone Star	Ouango	Snowshoe Hare
Ippy	Louping Ill	Oubangui	Sokoluk
Irituia	Lukuni	Pacora	Soldado
Isfrahán	Machupo	Pacui	Sororoca
Israel Turkey Meningitis	Madrid	Pahayokee	Spondweni
Issyk-Kul	Maguari	Palyam	St. Louis Encephalitis
Itaituba	Mahogany Hammock	Paramushir	Stratford
Itaporanga	Main Drain	Parana	Sunday Canyon Tacaiuma
Itaqui	Malakal	Paroo River	Tacaribe
Jamestown Canyon ^c	Manawa	Pata	Taggert
Japanese Encephalitis	Manzanilla	Pathum Thani	Tahyna
Japunaut	Mapputta	Patois	Tamdy
Jerry Slough	Maprik	Phnon-Penh Bat	Tamiami
Johnston Atoll	Marburg	Pichinde	Tanga
Joinjakaka	Marco	Picola	Tanjong Rabok
Juan Diaz	Marituba	Piry	Tataguine
Jugra	Matariya	Pixuna	Telok Forest
Junin	Matruh	Pongola	Tembe
Jurona	Matucare	Ponteves	Tembusu
Jutiapa	Mayaro	Powassan	Tensaw
Kadam	Melao	Pretoria	Termeil
Kaeng Khoi	Mermet	Puchong	Tete
Kaikalur	Middleburg	Punta Salinas	Tettnang
Kairi	Minatitlan	Punta Toro	Thimiri
Kaisodi	Minnal	Qalyub	Thogoto
Kamese	Mirim	Quaranfil	Thottapalayam
Kammavanpettai	Mitchell River	Razdan	Tilligerry
Kannamangalam	Modoc	Restan	Timbo
Kao Shuan	Moju	Rift Valley Fever	Timboteua
Karimabad	Mono Lake	Rio Bravo	Tlacotalpan
Karshi	Montana Myotis	Rio Grande	Tonate
Kasba	Leukemia	Rochambeau	Toure
Kemerovo	Moriche	Rocio	Tribec

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Triniti	Usutu	Warrego	Yaquina Head
Trivittatus ^c	Utinga	Wesselsbron	Yata
Trubanaman	Ukuniemi	Western Equine	Yellow Fever
Tsuruse	VEE (TC83)	Encephalitis	Yellow Fever (17D)
Turlock	Vellore	West Nile	Yogue
Tyuleniy	Venezuelan Equine	Whataroa	Zaliv Terpeniya
Uganda S	Encephalitis	Witwatersrand	Zegla
Umatilla	Venkatapuram	Wongal	Zika
Umbre	VS-Alagoas	Wongorr	Zinga
Una	Wad-Medani	Wyeomyia	Zingilamo
Upolu	Wallal	Yacaaba	Zirqa
Urucuri	Wanowrie		

^cAgents with a higher probability of possible contact within the state.

Note: All communicable diseases as designated by ch. HSS 145 are to be reported in accordance with the rules of ch. HSS 145.

History: Cr. Register, September, 1983, No. 333, eff. 10-1-83; am. table 35 02-4, Register, November, 1986, No. 371, eff. 12-1-86.

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APPENDIX A

Excerpts From the Employes' Right to Know Law
ss. 101.58 to 101.599, Stats.

101.58 (2) Definitions. (c) "Employe" 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) "Employe representative" means an individual or organization to whom an employe 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 employe 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 employe. "Employer" includes the state and its political subdivisions. If any employe 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 employes to perform agricultural labor and other employes for other purposes is only considered an employer with respect to the employes 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.

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

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

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 employes are usually posted a sign which informs employes that the employer is required, upon request, to provide an employe or employe representative with all of the following:

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

101.585 Infectious agent information requirements; employer to employe. (1) Except as provided in s. 101.589 (1) and (3), within 72 hours after a written request by an employe or employe representative, exclusive of weekends and legal holidays, an employer shall provide in writing to the employe or employe representative the following information regarding any infectious agent which the employe 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 employe or employe representative making the request has requested information about the infectious agent under sub. (1) within the preceding 12 months, unless the employe's job assignment has changed or there is new information available concerning any of the subjects about which information if required to be provided.

History: 1981 c. 364.

101.589 Extended time periods; exceptions. (1) If an employer has not obtained the information required to be provided under made under ss. 101.583 (2) (a) and 101.585 (1), at the time of a request made under s.

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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 employe or employe representative that the employer has requested, has not received and does not otherwise have the information.

History: 1981 c. 364; 1981 c. 391 s. 210.

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 employes under s. 101.583 (2) (a) or 101.585 (1).

History: 1981 c. 364.

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, employe or employe representative requests 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 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 employe's authorized physician stating that the information is necessary for medical treatment of the employe. 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.

History: 1981 c. 364; 1983 a. 392 s. 20.

Register, June, 1995, No. 474

101.595 Employe rights. (1) Not to work with toxic substance, infection agent or pesticide. Except as provided in ss. 101.589 (3) and 101.592, if an employe 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 employe 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 employe who has made the request.

(2) **Retaliation prohibited.** (a) No employer or agricultural employer may discharge or otherwise discipline or discriminate against any employe because the employe 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 employe to waive any rights under ss. 101.58 to 101.599.

History: 1981 c. 364; 1983 a. 392; 1989 a. 228.

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 employe's initial assignment to a workplace where the employe may be routinely exposed to any toxic substance, infectious agent or pesticide, an employer shall provide the employe with an education or training program under sub. (5) (a) or (c). The employer shall provide additional instruction whenever the employe may be routinely exposed to any additional toxic substance or infectious agent.

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

(3) **By department.** The department shall inform manufacturers, suppliers, employers, agricultural employers and employes of their duties and rights under ss. 101.58 to 101.599. As part of this program, the department shall cooperate with the departments of development and 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% of the permissible exposure level established by the federal occupational safety and health administration, or any exposure exceeding 100% 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 employe 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 employes 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 employe'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 toxic substances or infectious agents.

(c) *Pesticides.* For each pesticide to which the employe 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 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.

History: 1981 c. 364, 391; 1983 a. 392.

101.599 Remedies; civil forfeitures. (1) Complaint.

An employe or employe 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 employe or employe 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 employe or providing back pay to an employe.

(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 wilfully 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.

History: 1981 c. 364; 1981 c. 391 ss. 101.102; 1983 a. 392; 1989 a. 228.