



State of Wisconsin
2003 - 2004 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2003 SENATE BILL 246**

September 23, 2003 - Offered by Senators ERPENBACH and HANSEN.

1 **AN ACT** *to amend* 84.063 (5), 84.30 (14), 86.196 (2) (c), 218.0114 (13) (b), 218.11
2 (2) (b) 1., 218.12 (2) (b) 2., 218.22 (2) (b) 1., 218.32 (2) (b) 1., 218.41 (2m) (a) 1.,
3 218.51 (3) (b) 1., 341.19 (4), 343.02 (1) and 343.305 (11); **to repeal and recreate**
4 299.05; and **to create** 29.026, 73.303, 85.16 (3), 93.125, 101.022, 125.04 (3m),
5 145.025, 168.165 and 224.50 of the statutes; **relating to:** periods in which state
6 agencies will act on certain applications, refunds of fees, and granting
7 rule-making authority.

Analysis by the Legislative Reference Bureau

Deadlines for agency action

This substitute amendment requires state agencies to promulgate rules establishing periods within which the agencies intend to approve or disapprove applications for specified licenses, permits, and other approvals that the agencies issue. The following state agencies are required to promulgate rules: the Department of Natural Resources (DNR); the Department of Agriculture, Trade and Consumer Protection (DATCP); the Department of Commerce; the Department of Financial Institutions (DFI); the Department of Transportation (DOT); and the Department of Revenue (DOR).

Fee refunds upon failure to meet deadlines

Under this substitute amendment, if an agency fails to act within the period established by rule, the agency must refund fees paid by an applicant for an approval. An agency and an applicant may agree to extend the period for these specified approvals.

Approvals covered by this substitute amendment include: air pollution permits, well driller registrations, bait dealer licenses, commercial fishing licenses, high-capacity well approvals, water pollution permits, solid or hazardous waste facility operating licenses, and permits and other determinations related to structures and deposits in navigable waters issued by DNR; milk producer, buttermaker, cheesemaker, nursery dealer, pesticide manufacturer, commercial feed manufacturer, food processing plant, and grain dealer licenses and farm-raised deer registrations issued by DATCP; electrician certifications, plumber licenses, building plan approvals, approvals of construction site erosion control plans, approvals of exemptions from requirements related to the retention and disclosure of information about toxic substances, and approvals of agencies that inspect manufactured homes issued by the Department of Commerce; mortgage banker and investment advisor licenses, approvals of plans for mergers by certain business entities, and approvals relating to the operations of state banks, savings banks and savings and loans, and credit unions issued by DFI; outdoor advertising permits, motor vehicle dealer licenses, oversize and overweight vehicle permits, approvals relating to maintenance of highway vegetation, and certain types of business and vehicle registrations issued by DOT; and permits related to the sale of cigarettes, tobacco products, and alcohol beverages issued by DOR.

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

1 **SECTION 1.** 29.026 of the statutes is created to read:

2 **29.026 Deadlines for action on certain approval applications. (1)**

3 **DEADLINES.** The department, by rule, shall establish periods within which the
4 department intends to approve or disapprove an application for any of the approvals
5 specified in s. 29.024 (2r) 1. to 16.

6 **(2) FAILURE TO MEET DEADLINE.** Subject to sub. (4), the department shall refund
7 fees paid by the applicant for an approval subject to sub. (1) if the department fails
8 to provide the applicant with written notice that the department has approved or
9 disapproved the application for the approval, including the specific facts upon which

1 any disapproval is based, before the expiration of the period established under sub.
2 (1) for the approval.

3 (4) PERMITTED EXTENSION OF DEADLINE. During the period established under
4 sub. (1), the department and the applicant may jointly agree to a different period for
5 acting on an application for an approval than that specified under sub. (1).

6 **SECTION 2.** 73.303 of the statutes is created to read:

7 **73.303 Deadlines for action on permit applications. (1)** In this section,
8 “department” means the department of revenue.

9 (2) The department, by rule, shall establish periods within which the
10 department intends to approve or disapprove an application for any of the following:

11 (a) A permit under s. 139.34.

12 (b) A cigarette salesperson permit under s. 139.37.

13 (c) A tobacco product salesperson permit under s. 139.81.

14 (3) Subject to sub. (5), the department shall refund fees paid by the applicant
15 for a permit specified in sub. (2) if the department fails to provide the applicant with
16 written notice that the department has approved or disapproved the application for
17 the permit, including the specific facts upon which any disapproval is based, before
18 the expiration of the period established under sub. (2) for the permit.

19 (5) During the period established under sub. (2), the department and the
20 applicant may jointly agree to a different period for acting on an application for a
21 permit than that specified under sub. (2).

22 **SECTION 3.** 84.063 (5) of the statutes is amended to read:

23 84.063 (5) RULES. The department shall promulgate rules, including any rule
24 required under s. 85.16 (3), to implement and administer this section.

25 **SECTION 4.** 84.30 (14) of the statutes is amended to read:

1 84.30 (14) DEPARTMENT RULES. The department may promulgate rules deemed
2 necessary to implement and enforce this section. The department shall promulgate
3 rules to restrict the erection and maintenance of signs as to their lighting, size,
4 number and spacing when such signs are visible from the highway but outside the
5 adjacent area. The department shall by rule establish a priority system for the
6 removal or relocation of all signs not specified in sub. (5) (d) which fail to conform to
7 the requirements of sub. (5). The department's rules shall include any rule required
8 under s. 85.16 (3).

9 **SECTION 5.** 85.16 (3) of the statutes is created to read:

10 85.16 (3) (a) The department, by rule, shall establish periods within which the
11 department intends to approve or disapprove an application for any of the following:

- 12 1. An approval related to a utility facilities work plan under s. 84.063 (3) (c).
- 13 2. An approval or permit related to a controlled-access highway under s. 84.25
14 (4) or (7).
- 15 3. An approval of a franchise or permit granted by a municipality as specified
16 in s. 84.08.
- 17 4. An outdoor advertising business license under s. 84.30 (10).
- 18 5. An outdoor advertising sign permit under s. 84.30 (10m).
- 19 6. An approval related to highway vegetation under s. 86.03 (3).
- 20 7. A permit related to excavating, filling, altering, or disturbing a highway or
21 bridge under s. 86.07 (2).
- 22 8. A permit for the erection and maintenance of a specific information sign
23 under s. 86.195 (2) (a) or a business sign under s. 86.195 (2) (b).
- 24 9. A permit for the erection and maintenance of a tourist-oriented directional
25 sign under s. 86.196 (2).

- 1 10. An unairworthy aircraft certificate under s. 114.20 (5).
- 2 11. A recreational vehicle dealer's license under s. 218.11.
- 3 12. A recreational vehicle salesperson's license under s. 218.12.
- 4 13. A motor vehicle salvage dealer's license under s. 218.22.
- 5 14. A motor vehicle auction dealer's license under s. 218.32.
- 6 15. A moped dealer's license under s. 218.41.
- 7 16. A buyer identification card under s. 218.51.
- 8 17. An approval related to quarterly or consecutive monthly registration under
9 s. 341.185 or 341.19.
- 10 18. A registration of a dealer, distributor, manufacturer, or transporter under
11 s. 341.51.
- 12 19. A registration of a finance company or a financial institution under s.
13 341.57.
- 14 20. A certificate of title under s. 342.18.
- 15 21. A permit to perform chemical analysis of the breath under s. 343.305 (6).
- 16 22. A license to conduct a driver school under s. 343.61.
- 17 23. A license to act as a driving instructor under s. 343.62.
- 18 24. A permit related to oversize and overweight vehicles and loads under ss.
19 348.26 or 348.27.
- 20 (b) Subject to par. (i), the department shall refund any applicable fee paid by
21 the applicant for any license, permit, or other approval specified in par. (a) if the
22 department fails to provide the applicant with written notice that the department
23 has approved or disapproved the application for the license, permit, or other
24 approval, including the specific facts upon which any disapproval is based, before the

1 expiration of the period established under par. (a) for the license, permit, or other
2 approval.

3 (i) During the period established under par. (a) for a license, permit, or other
4 approval specified in par. (a), the department and the applicant may jointly agree to
5 a different period for acting on an application for a license, permit, or other approval
6 than that specified under par. (a).

7 **SECTION 6.** 86.196 (2) (c) of the statutes is amended to read:

8 86.196 (2) (c) Provisions for fees to cover costs of sign manufacture, erection and
9 maintenance to be collected through a permit system and deadlines for acting on
10 permit applications as required under s. 85.16 (3).

11 **SECTION 7.** 93.125 of the statutes is created to read:

12 **93.125 Deadlines for action on certain applications. (1) DEADLINES.** The
13 department, by rule, shall establish periods within which the department intends to
14 approve or disapprove an application for any of the following:

15 (a) A food inspector license under s. 93.11.

16 (ad) A professional weather modification license under s. 93.35 (4).

17 (ah) A weather modification permit under s. 93.35 (6).

18 (am) A nursery dealer license under s. 94.10 (2).

19 (b) A nursery grower license under s. 94.10 (3).

20 (c) A Christmas tree grower license under s. 94.10 (3g).

21 (cm) A seed labeler's license under s. 94.43.

22 (d) A ginseng grower or dealer registration under s. 94.50 (2).

23 (e) A fertilizer manufacturer or distributor license under s. 94.64 (3).

24 (em) A nonagricultural or special-use fertilizer permit under s. 94.64 (3m).

- 1 (f) A soil or plant additive manufacturer or distributor license under s. 94.65
2 (2).
- 3 (g) A soil or plant additive permit under s. 94.65 (3).
- 4 (gm) A license for the sale or distribution of liming material under s. 94.66 (2).
- 5 (h) A pesticide manufacturer or labeler license under s. 94.68 (1).
- 6 (i) A restricted-use pesticide dealer or distributor license under s. 94.685.
- 7 (im) A veterinary clinic pesticide use and repackaging permit under s. 94.702.
- 8 (j) A commercial pesticide application business license under s. 94.703.
- 9 (jg) An individual commercial pesticide applicator license under s. 94.704.
- 10 (jr) A pesticide applicator certification under s. 94.705.
- 11 (k) A commercial feed manufacturer or distributor license under s. 94.72 (5).
- 12 (km) A farm-raised deer registration under s. 95.55.
- 13 (L) A fish farm registration under s. 95.60 (3m).
- 14 (m) An animal market license under s. 95.68 (2).
- 15 (mm) An animal dealer license under s. 95.69 (2).
- 16 (n) An animal trucker license under s. 95.71 (2).
- 17 (p) A license for collecting or processing dead animals under s. 95.72 (2).
- 18 (pm) A license for transporting dead animals under s. 95.72 (7).
- 19 (pr) A buttermaker or cheesemaker license under s. 97.17.
- 20 (pw) A butter grader or cheese grader license under s. 97.175.
- 21 (q) A dairy plant license under s. 97.20 (2).
- 22 (r) A bulk milk tanker license under s. 97.21 (2).
- 23 (rm) A milk distributor license under s. 97.21 (3).
- 24 (rr) A milk producer license under s. 97.22 (2).
- 25 (rw) A grade A dairy farm permit under s. 97.22 (3).

1 (s) A food warehouse license under s. 97.27 (2).

2 (t) A food processing plant license under s. 97.29 (2).

3 (tm) A retail food establishment license under s. 97.30 (2).

4 (u) A meat or poultry commercial slaughtering or processing license or a meat
5 or poultry custom slaughtering or processing registration certificate under s. 97.42
6 (2).

7 (ur) A milk and cream tester license under s. 98.145.

8 (uw) A milk weigher and sampler license under s. 98.146.

9 (v) A vehicle scale license under s. 98.16.

10 (vm) A weights and measures servicing license under s. 98.18 (1) (a).

11 (w) A liquid petroleum gas meter registration under s. 98.245 (7).

12 (wm) A public warehouse keeper license under s. 99.02 (1).

13 (x) A mobile air conditioner servicing registration certificate under s. 100.45
14 (5) (c).

15 (xm) A grain dealer license under s. 126.11.

16 (y) A grain warehouse keeper license under s. 126.26.

17 (ym) A milk contractor license under s. 126.41.

18 (z) A vegetable contractor license under s. 126.56.

19 **(2) FAILURE TO MEET DEADLINE.** Subject to sub. (4), the department shall refund
20 fees paid by the applicant for a license, permit, or other approval specified in sub. (1)
21 if the department fails to provide the applicant with written notice that the
22 department has approved or disapproved the application for the license, permit, or
23 other approval, including the specific facts upon which any disapproval is based,
24 before the expiration of the period established under sub. (1) for the license, permit,
25 or other approval.

1 **(4) PERMITTED EXTENSION OF DEADLINE.** During the period established under
2 sub. (1), the department and the applicant may jointly agree to a different period for
3 acting on an application for a license, permit, or other approval than that specified
4 under sub. (1).

5 **SECTION 8.** 101.022 of the statutes is created to read:

6 **101.022 Deadlines for action on certain applications. (1) DEFINITION.** In
7 this section, “application” means any form or other writing that is submitted to the
8 department under this chapter, ch. 145 or 168, or s 167.10 (6m) for the purpose of
9 obtaining any approval of the department that is required by law as a prerequisite
10 to the applicant taking certain actions.

11 **(2) DEADLINES.** The department, by rule, shall establish periods within which
12 the department intends to approve or disapprove any application. Any period
13 established under this subsection shall be consistent with any applicable period
14 specified by statute.

15 **(3) FAILURE TO MEET DEADLINE.** Subject to sub. (5), the department shall refund
16 fees paid by a person submitting an application if the department fails to provide the
17 person with written notice that the department has approved or disapproved the
18 application, including the specific facts upon which any disapproval is based, before
19 the expiration of the period established under sub. (2) for the application.

20 **(5) PERMITTED EXTENSION OF DEADLINE.** During the period established under
21 sub. (2), the department and the applicant may jointly agree to a different period for
22 acting on an application than that specified under sub. (2).

23 **SECTION 9.** 125.04 (3m) of the statutes is created to read:

24 **125.04 (3m) DEADLINES FOR ACTION ON PERMIT APPLICATIONS.** (a) The
25 department, by rule, shall establish periods within which the department intends to

1 approve or disapprove an application for any permit issued by the department under
2 this chapter.

3 (b) Subject to par. (f), the department shall refund any fee paid by the applicant
4 for any permit under this chapter if the department fails to provide the applicant
5 with written notice that the department has approved or disapproved the application
6 for the permit, including the specific facts upon which any disapproval is based,
7 before the expiration of the period established under par. (a) for the permit.

8 (f) During the period established under par. (a), the department and the
9 applicant may jointly agree to a different period for acting on an application for a
10 permit than that specified under par. (a).

11 **SECTION 10.** 145.025 of the statutes is created to read:

12 **145.025 Deadlines for action on applications.** Any form or other writing
13 that is submitted to the department under this chapter for the purpose of obtaining
14 any approval of the department that is required by law as a prerequisite to the
15 applicant taking certain actions is subject to s. 101.022.

16 **SECTION 11.** 168.165 of the statutes is created to read:

17 **168.165 Deadlines for action on applications.** Any form or other writing
18 that is submitted to the department under this chapter for the purpose of obtaining
19 any approval of the department that is required by law as a prerequisite to the
20 applicant taking certain actions is subject to s. 101.022.

21 **SECTION 12.** 218.0114 (13) (b) of the statutes is amended to read:

22 218.0114 (13) (b) The department of transportation shall promulgate rules
23 establishing the license period for each type of license described in sub. (14) (a) to (f)
24 and shall promulgate any rule required under s. 85.16 (3).

25 **SECTION 13.** 218.11 (2) (b) 1. of the statutes is amended to read:

1 218.11 (2) (b) 1. The department shall promulgate rules establishing the
2 license period under this section and shall promulgate any rule required under s.
3 85.16 (3).

4 **SECTION 14.** 218.12 (2) (b) 2. of the statutes is amended to read:

5 218.12 (2) (b) 2. The department may promulgate rules establishing a uniform
6 expiration date for all licenses issued under this section and shall promulgate any
7 rule required under s. 85.16 (3).

8 **SECTION 15.** 218.22 (2) (b) 1. of the statutes is amended to read:

9 218.22 (2) (b) 1. The department shall promulgate rules establishing a license
10 period and shall promulgate any rule required under s. 85.16 (3).

11 **SECTION 16.** 218.32 (2) (b) 1. of the statutes is amended to read:

12 218.32 (2) (b) 1. The department shall promulgate rules establishing a license
13 period and shall promulgate any rule required under s. 85.16 (3).

14 **SECTION 17.** 218.41 (2m) (a) 1. of the statutes is amended to read:

15 218.41 (2m) (a) 1. The department shall promulgate rules establishing a
16 license period and shall promulgate any rule required under s. 85.16 (3).

17 **SECTION 18.** 218.51 (3) (b) 1. of the statutes is amended to read:

18 218.51 (3) (b) 1. The department shall promulgate rules establishing the buyer
19 identification card period and shall promulgate any rule required under s. 85.16 (3).

20 **SECTION 19.** 224.50 of the statutes is created to read:

21 **224.50 Deadlines for action on certain applications. (1) DEFINITIONS.** In
22 this section:

23 (a) "Application" means any form or other writing that is submitted to the
24 department for the purpose of obtaining any approval of the department that is
25 required by law as a prerequisite to the applicant taking certain actions.

1 (b) “Department” means the department of financial institutions and any
2 subunit of the department of financial institutions.

3 (2) DEADLINES. (a) The department, by rule, shall establish periods within
4 which the department intends to approve or disapprove an application.

5 (b) Any period established under par. (a) shall be consistent with any applicable
6 period specified by statute.

7 (3) FAILURE TO MEET DEADLINE. Subject to sub. (5), the department shall refund
8 fees paid by an applicant if the department fails to provide the applicant with written
9 notice that the department has approved or disapproved the application, including
10 the specific facts upon which any disapproval is based, before the expiration of the
11 period established under sub. (2) for the application.

12 (5) PERMITTED EXTENSION OF DEADLINE. During the period established under
13 sub. (2), the department and the applicant may jointly agree to a different period for
14 acting on an application than that specified under sub. (2).

15 **SECTION 20.** 299.05 of the statutes is repealed and recreated to read:

16 **299.05 Deadlines for action on certain applications.** (1) DEADLINES. The
17 department, by rule, shall establish periods within which the department intends to
18 approve or disapprove an application for any of the following:

19 (a) Permits and other determinations related to navigable waters under ss.
20 30.10, 30.12, 30.123, 30.18, 30.19, and 30.20.

21 (ag) A well driller or pump installer registration under s. 280.15.

22 (ar) A high-capacity well approval under s. 281.17 (1).

23 (b) A water system, wastewater treatment plant, or septage servicing vehicle
24 operator certification under s. 281.17 (3).

25 (c) A license for servicing septic tanks and similar facilities under s. 281.48 (3).

- 1 (cm) A water pollution discharge permit under s. 283.31 or 283.33.
- 2 (d) A solid waste incinerator operator certification under s. 285.51 (2).
- 3 (e) An ozone-depleting refrigerant removal approval under s. 285.59.
- 4 (em) An air pollution control permit under s. 285.60.
- 5 (er) A solid waste facility determination of feasibility under s. 289.29.
- 6 (ew) A solid waste facility operating license under s. 289.31.
- 7 (f) A solid waste disposal facility operator certification under s. 289.42 (1).
- 8 (g) A hazardous waste transportation service license under s. 291.23.
- 9 (gm) A hazardous waste facility operating license under s. 291.25.
- 10 (h) A metallic mining exploration license under s. 293.21.
- 11 (i) An oil or gas exploration license under s. 295.33 (1).
- 12 (ig) A prospecting permit under s. 293.45.
- 13 (ir) An oil or gas production license under s. 295.33 (2).
- 14 (j) A laboratory certification or registration under s. 299.11.
- 15 (k) A medical waste transportation license under s. 299.51 (3) (c).
- 16 **(2) FAILURE TO MEET DEADLINE.** Subject to sub. (4), the department shall refund
- 17 fees paid by the applicant for a license, permit, or other approval specified in sub. (1)
- 18 if the department fails to provide the applicant with written notice that the
- 19 department has approved or disapproved the application for the license, permit, or
- 20 other approval, including the specific facts upon which any disapproval is based,
- 21 before the expiration of the period established under sub. (1) for the license, permit,
- 22 or other approval.
- 23 **(4) PERMITTED EXTENSION OF DEADLINE.** During the period established under
- 24 sub. (1), the department and the applicant may jointly agree to a different period for

1 acting on an application for a license, permit, or other approval than that specified
2 under sub. (1).

3 **SECTION 21.** 341.19 (4) of the statutes is amended to read:

4 341.19 (4) The department shall promulgate rules to implement this section
5 and shall promulgate any rule required under s. 85.16 (3).

6 **SECTION 22.** 343.02 (1) of the statutes is amended to read:

7 343.02 (1) The department shall administer and enforce this chapter and may
8 promulgate for that purpose such rules as the secretary considers necessary and
9 shall promulgate any rule required under s. 85.16 (3). Rules promulgated under this
10 chapter may not conflict with and shall be at least as stringent as standards set by
11 the federal commercial motor vehicle safety act, 49 USC 31301 to 31317 and the
12 regulations adopted under that act.

13 **SECTION 23.** 343.305 (11) of the statutes is amended to read:

14 343.305 (11) RULES. The department shall promulgate rules under ch. 227
15 necessary to administer this section and shall promulgate any rule required under
16 s. 85.16 (3). The rules shall include provisions relating to the expeditious exchange
17 of information under this section between the department and law enforcement
18 agencies, circuit courts and district attorneys. The rules may not affect any
19 provisions relating to court procedure.

20 **SECTION 24. Initial applicability.**

21 (1) This act first applies to applications that are received on the effective date
22 of this subsection.

23 **SECTION 25. Effective date.**

