



**State of Wisconsin
1995 - 1996 LEGISLATURE**

LRB-1632/1
TAY:skg;jlb

1995 ASSEMBLY BILL 454

June 26, 1995 – Introduced by Representatives OWENS, SCHNEIDER, OTTE, OURADA, HAHN, ROBSON, OLSEN, HOVEN, URBAN, LADWIG, LA FAVE, VRAKAS, KELSO, GROTHMAN and SCHNEIDERS, cosponsored by Senators BUETTNER, BURKE and RUDE. Referred to Committee on Labor and Employment.

1 **AN ACT to amend** 20.445 (1) (j); and **to create** 101.129 of the statutes; **relating**
2 **to:** regulation of persons involved in radon mitigation, granting rule-making
3 authority, making an appropriation and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, the department of health and social services (DHSS) and the department of industry, labor and human relations (DILHR) are required to develop and disseminate information on radon, coordinate a program of measuring radon gas accumulation in certain buildings and work with local health agencies to perform surveys and diagnostic measurements of radon in homes. DHSS and DILHR must also develop ways to mitigate radon accumulation or emission in homes with high radon gas levels and must develop training materials and conduct training of building contractors, the staffs of local health agencies and others in radon diagnosis and mitigation methods. DHSS is required to serve as the lead agency in these cooperative projects. Current law does not require any individual or business performing radon mitigation to have specific training or be approved by DHSS, DILHR or any other state agency.

This bill prohibits any individual from performing radon mitigation for compensation unless he or she is certified by DILHR. The bill also prohibits any corporation, partnership or other association of individuals from performing radon mitigation for compensation unless the individual performing the work on behalf of the corporation, partnership or association is certified by DILHR. The bill requires DILHR to promulgate rules establishing the following: 1) qualifications an individual must have in order to be certified, which may not be less stringent than those established by the federal environmental protection agency; 2) procedures for certifying individuals and for renewing certification; and 3) fees that an individual must pay for certification and for renewal of certification. The bill also authorizes DILHR to certify an individual who does not satisfy the qualifications under the rules promulgated by DILHR if the individual is qualified to perform radon

mitigation based on his or her experience and other relevant considerations. The bill requires DILHR to establish a procedure for certifying an individual based on his or her experience or other relevant considerations.

The bill also establishes penalties for performing radon mitigation without being certified. A first offense is punishable by a forfeiture of \$250, which may be stayed to give the individual the opportunity to become certified by DILHR. Subsequent offenses are punishable by a forfeiture of not more than \$5,000.

The bill takes effect on the day after publication, except that the prohibition against performing radon mitigation without being certified takes effect on July 1, 1996.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 20.445 (1) (j) of the statutes is amended to read:

2 **20.445 (1) (j) Safety and building operations.** The amounts in the schedule for
3 the purposes of subchs. I, II, III, IV and VI of ch. 101, chs. 145 and 168 and ss. 236.12
4 (2) (a), 236.13 (1) (d) and (2m) and 236.335. All moneys received under ch. 145 and
5 ss. 101.129 (3) (c), 101.177 (4) (a) 4., 101.178, 101.19, 101.63 (9), 101.654 (3), 101.73
6 (12), 101.82 (4), 101.973 (7), 168.12 (6) and 236.12 (7) shall be credited to this
7 appropriation.

8 **SECTION 2.** 101.129 of the statutes is created to read:

9 **101.129 Radon mitigators.** (1) **DEFINITIONS.** In this section:

10 (a) “Building” has the meaning given in s. 101.125 (1) (a).

11 (b) “Radon mitigation” means any method, including the use of any product or
12 device, designed to eliminate or reduce the emission or accumulation of radon gas in
13 a building.

14 (2) **CERTIFICATION REQUIRED.** (a) No individual may perform radon mitigation
15 for compensation unless he or she is certified by the department under this section.

1 (b) No corporation, partnership or association of individuals may perform
2 radon mitigation for compensation unless an employe, officer, partner or agent of the
3 corporation, partnership or association who is certified under this section performs
4 the radon mitigation for the corporation, partnership or association.

5 **(3) DEPARTMENT DUTIES.** The department shall promulgate rules establishing
6 all of the following:

7 (a) The qualifications, which may include training requirements, that an
8 individual is required to possess to be certified by the department to perform radon
9 mitigation or to renew such a certification. The qualifications established under this
10 paragraph may not be less stringent than the standards established by the federal
11 environmental protection agency in its proficiency testing program under 15 USC
12 2665. In establishing qualifications under this paragraph, the department shall
13 consider the strategies and methods developed and used under s. 254.34 (1) (h) 3. and
14 4.

15 (b) A procedure for certifying that an individual has the qualifications
16 established under par. (a) and for renewing, every 2 years, a certification issued
17 under this section. The procedure for the initial certification of an individual shall
18 include an examination.

19 (c) The fee that an individual is required to pay for certification and renewal
20 of certification. The fees established under this paragraph shall be sufficient to cover
21 the cost of administering this section.

22 **(4) CERTIFICATION BASED ON EXPERIENCE.** Notwithstanding sub. (3) (a) and (b),
23 the department may certify an individual who does not satisfy the qualifications
24 established by the rules promulgated under sub. (3) (a) if the department determines
25 that the individual is qualified to perform radon mitigation based on his or her

experience and other relevant considerations. The department shall promulgate rules establishing a procedure for certifying an individual under this subsection. The procedure established under this subsection shall include an examination.

(5) PENALTIES. Any person who performs radon mitigation for compensation without being certified by the department under this section shall be subject to the following penalties:

(a) A forfeiture of \$250, if the person has no previous convictions for violating this subsection. The court may stay the imposition of the forfeiture for not more than 9 months and order the person to become certified by the department under this section. If the person fails to become certified by the date set by the court, the forfeiture shall be imposed. If the person becomes certified, the court shall vacate the forfeiture.

(b) A forfeiture of not more than \$5,000, if the person has a previous conviction for violating this subsection.

SECTION 3. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of section 101.129 (2) and (5) of the statutes takes effect on July 1, 1996.

(END)