



1997 SENATE BILL 57

February 5, 1997 - Introduced by Senators JAUCH, GROBSCHMIDT and PLACHE, cosponsored by Representatives BLACK, MURAT, GOETSCH, TURNER, DOBYNS, ALBERS, KREIBICH, HUBER, KREUSER, LINTON, R. POTTER, LA FAVE, BOYLE, URBAN and BAUMGART. Referred to Committee on Labor, Transportation and Financial Institutions.

1 **AN ACT to renumber and amend** 20.395 (4) (bh) and 166.20 (7g) (b); and *to*
2 **create** 166.20 (7g) (b) 1. to 8. of the statutes; **relating to:** hazardous materials
3 transportation registration fees.

Analysis by the Legislative Reference Bureau

Under current law, the state emergency response board (SERB) establishes hazardous materials transportation registration fees to be paid by persons who are required to file federal hazardous materials transportation registration statements because they transport hazardous materials. In 1995 Wisconsin Act 113, SERB was directed to charge the same amount of fees to persons required to file hazardous materials transportation registration statements with the department of transportation as were promulgated in rules established by SERB and in effect on June 30, 1995. In October, 1996, the Wisconsin court of appeals, in *American Trucking Associations, Inc., v. the State of Wisconsin*, found that the flat fee structure established by SERB and in effect on June 30, 1995, violated the commerce clause of the U.S. Constitution. This bill reinstates the provisions of the law in effect before the changes in 1995 Wisconsin Act 113. Under this bill, fees are based on gross revenue derived from the shipment, the type and quantity of hazardous materials transported, the number and frequency of such shipments, the potential harm threatened by release of the materials and other factors. The bill also clarifies that money received from those fees is deposited in the transportation fund and is used in part to fund the administration of those fees.

SENATE BILL 57

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.** 20.395 (4) (bh) of the statutes is renumbered 20.395 (4) (bq) and
2 amended to read:

3 20.395 (4) (bq) (title) *Hazardous materials transportation fees, state funds.*
4 Biennially, from the general fund, from the moneys received from the hazardous
5 materials transportation registration fees established under s. 166.20 (7g) and
6 collected under s. 85.50, the amounts in the schedule for the purpose of
7 administering those fees.

8 **SECTION 2.** 166.20 (7g) (b) of the statutes is renumbered 166.20 (7g) (b) (intro.)
9 and amended to read:

10 166.20 (7g) (b) (intro.) The board shall base the amount of the fees under this
11 subsection shall be the amount of the fees established in s. ~~ERB 4.03 (2), Wis. adm.~~
12 ~~code, as shown on June 30, 1995.~~ on one or more of the following factors:

13 **SECTION 3.** 166.20 (7g) (b) 1. to 8. of the statutes are created to read:

14 166.20 (7g) (b) 1. The amount of gross revenue from the transportation of
15 hazardous materials.

16 2. The percentage of gross revenue from the transportation of hazardous
17 materials.

18 3. The types of hazardous materials transported or caused to be transported.

19 4. The quantity of hazardous materials transported or caused to be
20 transported.

21 5. The number of shipments of hazardous materials.

