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State of Misconsin 2023 - 2024 LEGISLATURE

 $\begin{array}{c} LRB\text{--}1077/2\\ ZDW\text{:skw} \end{array}$

2023 SENATE BILL 52

February 14, 2023 - Introduced by Senators Jacque, Hesselbein and Spreitzer, cosponsored by Representatives Behnke, Joers, Knodl, Andraca, Baldeh, Doyle, Gustafson, Murphy, O'Connor, Ratcliff, Subeck and Shankland. Referred to Committee on Natural Resources and Energy.

AN ACT to create 20.370 (4) (gs) and 281.335 of the statutes; relating to: creating

a deicer applicators certification program and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Natural Resources to create a deicer applicators certification program and establish criteria for training individual commercial applicators in methods for snow and ice removal and deicer application that protect water quality. Under the bill, DNR must certify commercial applicators who have completed approved training and passed an exam.

The bill provides that a commercial applicator certified by DNR and the owner of real estate that contracts with a certified commercial applicator are not liable for damages arising from a hazard resulting from the accumulation of snow and ice on any real estate maintained by the certified commercial applicator when the hazard is caused solely by snow or ice and the certified commercial applicator used methods for snow and ice removal and deicer application that are taught in training approved by the department.

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:

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1	Section 1. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert					
2	the following amounts for the purposes indicated:					
	2023-24 2024-25					
3	20.370 Natural resources, department of					
4	(4) Environmental management					
5	(gs) Deicer applicators certification					
6	program SEG A -00-					
7	Section 2. 20.370 (4) (gs) of the statutes is created to read:					
8	20.370 (4) (gs) Deicer applicators certification program. From the					
9	environmental fund, the amounts in the schedule for the administration of the deicer					
10	applicators certification program.					
11	Section 3. 281.335 of the statutes is created to read:					
12	281.335 Deicer applicators certification program. (1) Definitions. In					
13	this section:					
14	(a) "Certified commercial applicator" means a commercial applicator who is					
15	certified by the department under sub. (2) (b).					
16	(b) "Commercial applicator" means an individual who applies deicer for hire					
17	but does not include a municipal, state, or other government employee.					
18	(c) "Deicer" means any substance used to melt snow and ice or for its anti-icing					
19	effects on privately owned surfaces traveled by pedestrians and vehicles.					
20	(d) "Owner" means a person that owns or leases real estate and that enters into					
21	a written contract with a certified commercial applicator for snow and ice removal					
22	and deicer application.					

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- (2) VOLUNTARY CERTIFICATION PROGRAM. (a) The department shall create a deicer applicators certification program and establish criteria for training commercial applicators in methods for snow and ice removal and deicer application that protect water quality. The department shall maintain a list of approved training programs that meet the criteria established under this paragraph.
- (b) The department shall certify a commercial applicator if the commercial applicator successfully completes a training program approved by the department under par. (a) and passes an examination approved by the department.
- (c) The department shall maintain and publish a list of certified commercial applicators on the department's website.
- (3) Liability. (a) A certified commercial applicator or an owner is not liable for damages arising from a hazard resulting from the accumulation of snow and ice on any real estate maintained by the certified commercial applicator when the hazard is caused solely by snow or ice and the certified commercial applicator used methods for snow and ice removal and deicer application that are taught in a training program approved by the department under sub. (2) (a).
- (b) Nothing in par. (a) limits the liability of a certified commercial applicator or an owner if the certified commercial applicator or owner does any of the following:
- 1. Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of entrants onto real estate of the owner that is maintained by the certified commercial applicator and the act or omission proximately causes injury, damage, or death.
- 2. Intentionally injures an entrant onto real estate of the owner that is maintained by the certified commercial applicator.

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- 3. Fails to use methods for snow and ice removal and deicer application that are taught in a training program approved by the department under sub. (2) (a).
- (c) This subsection does not apply to a commercial applicator who is not certified under this section.
- (4) Record Keeping. A certified commercial applicator shall maintain all of the following records:
- (a) A copy of the certified commercial applicator's certification that is issued by the department.
 - (b) Evidence of passing the examination approved by the department.
- (c) A written record describing the road, parking lot, and property maintenance practices the certified commercial applicator used. The record shall include the types and amounts of deicers used, the dates of treatment, and the weather conditions for each event requiring deicer application. The certified commercial applicator shall maintain records under this paragraph for not less than 6 years.
 - (d) Proof of compliance with the reporting requirements under sub. (5).
- (5) Reporting. No later than July 1 of each year, a certified commercial applicator shall submit to the department on a form provided by the department the types and amounts of deicers he or she used in the previous calendar year.
- (6) REVOCATION OF CERTIFICATION. The department may revoke the certification of a certified commercial applicator who violates this section or rules adopted under this section.

SECTION 4. Effective date.

(1) This act takes effect on the day after publication, or on the 2nd day after publication of the 2023 biennial budget act, whichever is later.