

1983 Senate Bill 118

Date of enactment: **May 2, 1984**
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1983 Wisconsin Act 392

AN ACT *to repeal* 101.597 (1) (title); *to renumber* 101.597 (2) (a) to (f) and 101.598; *to renumber and amend* 101.597 (1) (a) (intro.), 101.597 (1) (a) 1 to 7 and (b), 101.597 (2) (intro.), 101.599 (1) and 101.599 (2); *to amend* 101.581 (1) (intro.), (c) and (d), 101.586, 101.595 (1) and 101.599 (title); and *to create* 101.581 (1) (e) and (3), 101.583 (1) and (1m), 101.588, 101.597 (5) (title), (a) (intro.) and (c) (intro.), 101.598 (2), 101.599 (1), 101.599 (2) and 101.599 (3) (title) of the statutes, *relating to* retention of information under the employees' right-to-know law, providing a hearing procedure for violations

of that law, extending information requirements relating to pesticides and granting rule-making authority.

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

SECTION 1. 101.581 (1) (intro.), (c) and (d) of the statutes are amended to read:

101.581 (1) EMPLOYER. (intro.) An employer who uses, studies or produces a toxic substance ~~or~~, 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 ~~information regarding~~ all of the following:

(c) ~~Precautions~~ Information regarding precautions to be taken when handling the toxic substance or infectious agent.

(d) ~~Procedures~~ Information regarding procedures for emergency treatment in the event of overexposure to the toxic substance or infectious agent.

SECTION 2. 101.581 (1) (e) and (3) of the statutes are created to read:

101.581 (1) (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.

(3) MINOR EMPLOYEE. If an employe is a minor, an employer or agricultural employer shall send to the employe's parent or guardian, at the address provided by the employe, notice of the employe's rights under sub. (1) or (2).

SECTION 3. 101.583 (1) and (1m) of the statutes are created to read:

101.583 (1) RETENTION OF INFORMATION; LISTS. Except as provided by department rule under s. 101.598, an employer shall:

(a) Retain any material safety data sheet relating to a toxic substance and containing the information required to be provided to employes under sub. (2) for 30 years after the date upon which the employer last received the toxic substance in the workplace; or

(b) 1. Maintain a written list identifying any toxic substance present in a workplace on or after the effective date of this paragraph (1983), except as provided in subd. 2, and the dates that the toxic substance is present in the workplace. If a list is maintained, each toxic substance required to be on the list shall be included on the list until 30 years after the last date on which the substance is received in the workplace. Within 30 days after a written request by an employe or employe representative, exclusive of weekends and legal holidays, the employer shall provide to the employe or employe representative a copy of any list maintained for the employe's workplace or the workplace of the employes represented by the employe representative.

2. a. A toxic substance need not be included on a list if in the area in which any employe usually works the toxic substance is received in packages of one kilogram or less and if no more than 10 kilograms of the toxic substance are used in or purchased for that area per year.

b. A toxic substance need not be included on a list if it is a mixture containing one or more mineral dusts listed in 29 CFR 1910.1000, table z-3.

(1m) Any employer with less than 10 employes and less than \$750,000 in gross sales in the most recent calendar or fiscal year, whichever the employer uses for income tax purposes, is not subject to the requirements of sub. (1).

SECTION 4. 101.586 of the statutes is amended to read:

101.586 (title) Pesticide information requirements; employer or agricultural employer to employe. Within 72 hours of a request from an employe or employe representative, exclusive of weekends and legal holidays, an ~~employer or~~ agricultural employer shall provide the requesting employe or employe representative with access to the container

label or the information required by the federal environmental protection agency or the department of agriculture, trade and consumer protection to be on the container label, for any pesticide with which the employe works or to which the employe is likely to be exposed.

SECTION 4m. 101.588 of the statutes is created to read:

101.588 Information collection and maintenance; department. If an employer ceases business operations in this state, the employer shall provide the department with the information required under s. 101.583 or 101.585 relating to that employer. The department shall maintain that information and provide it to any employe upon request.

SECTION 5. 101.595 (1) of the statutes is amended to read:

101.595 (1) NOT TO WORK WITH TOXIC SUBSTANCE, INFECTIOUS 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.

SECTION 6. 101.597 (1) (title) of the statutes is repealed.

SECTION 7. 101.597 (1) (a) (intro.) of the statutes is renumbered 101.597 (1) and amended to read:

101.597 (1) (title) BY EMPLOYER; TOXIC SUBSTANCE, INFECTIOUS AGENT OR PESTICIDE. Except as provided in ~~par. (b) sub. (5) (b)~~, prior to an employe's initial assignment to a workplace where the employe may be routinely exposed to any toxic substance or 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. ~~For each toxic substance or infectious agent to which the employe may be routinely exposed, the education or training program shall include:~~

SECTION 8. 101.597 (1) (a) 1 to 7 and (b) of the statutes are renumbered 101.597 (5) (a) 1 to 7 and (b), and 101.597 (5) (b) (title), as renumbered, is amended to read:

101.597 (5) (b) (title) *Toxic substances and infectious agents; exception.*

SECTION 9. 101.597 (2) (intro.) of the statutes is renumbered 101.597 (2) and amended to read:

101.597 (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. ~~For each pesticide to which the employe may be routinely exposed, the education or training program shall include:~~

SECTION 10. 101.597 (2) (a) to (f) of the statutes are renumbered 101.597 (5) (c) 1 to 6.

SECTION 11. 101.597 (5) (title), (a) (intro.) and (c) (intro.) of the statutes are created to read:

101.597 (5) (title) PROGRAM CONTENTS. (a) *Toxic substances and infectious agents.* (intro.) For each toxic substance or infectious agent to which the employe may be routinely exposed, the education or training program shall include:

(c) *Pesticides.* (intro.) For each pesticide to which the employe may be routinely exposed the education or training program shall include:

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SECTION 12. 101.598 of the statutes is renumbered 101.598 (1).

SECTION 13. 101.598 (2) of the statutes is created to read:

101.598 (2) The department may, by rule, exempt employers from retaining a data sheet or maintaining a list, under s. 101.583 (1), regarding any mixture containing a toxic substance if the nature of the toxic substance or the quantity of toxic substance present in the mixture is such that the mixture is highly unlikely to pose an unreasonable acute or chronic health hazard to an employe who works with or is likely to be exposed to the mixture.

SECTION 14. 101.599 (title) of the statutes is amended to read:

101.599 (title) Remedies; civil forfeitures.

SECTION 15. 101.599 (1) of the statutes is renumbered 101.599 (3) (a) and amended to read:

101.599 (3) (a) Except as provided in ~~sub. (2) 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.

SECTION 16. 101.599 (1) of the statutes is created to read:

101.599 (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 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.

SECTION 17. 101.599 (2) of the statutes is renumbered 101.599 (3) (b) and amended to read:

101.599 (3) (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.

SECTION 18. 101.599 (2) of the statutes is created to read:

101.599 (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 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.

SECTION 19. 101.599 (3) (title) of the statutes is created to read:

101.599 (3) (title) CIVIL FORFEITURE.

SECTION 20. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
101.592 (1)	101.597 (1)(a) 2 to 7 and (b) 2 and 3	101.597 (5)(a) 2 to 7 and (b) 2 and 3