



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0792/3
MCP:emw/kjf/amn

2015 ASSEMBLY BILL 502

November 10, 2015 – Introduced by Representatives KERKMAN, C. TAYLOR, GOYKE, SUBECK, BERCEAU, OHNSTAD, CONSIDINE, A. OTT, SINICKI, BILLINGS, POPE, BOWEN, KOLSTE, MURPHY, THIESFELDT, ALLEN, HEATON, SPREITZER and WACHS, cosponsored by Senators BEWLEY, LASSA, RISSER, L. TAYLOR, HARRIS DODD and RINGHAND. Referred to Committee on Consumer Protection.

1 **AN ACT to renumber** 100.43 (2); and **to create** 100.43 (1) (gm), 100.43 (1) (k) and
2 100.43 (2) (b) of the statutes; **relating to:** regulation of liquid nicotine
3 packaging, providing an exemption from emergency rule procedures, and
4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Agriculture, Trade and Consumer Protection to promulgate rules requiring special packaging for liquid nicotine, which is commonly used to refill cartridges for electronic cigarettes. Current law defines special packaging as packaging that is designed or constructed in a way that makes it significantly difficult for children under five years of age to open or access the substance contained in the packaging or container. The bill creates an exemption from these rules for liquid nicotine contained in disposable packaging that is filled and sealed by the manufacturer and intended for use in vapor devices such as electronic cigarettes, and that is not intended to be opened by the consumer. The bill also requires these rules to meet the specifications and follow the testing methods for special packaging provided under certain federal regulations.

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:

ASSEMBLY BILL 502**SECTION 1**

1 **SECTION 1.** 100.43 (1) (gm) of the statutes is created to read:

2 100.43 (1) (gm) “Liquid nicotine” means a gel or liquid solution that has
3 nicotine as an ingredient.

4 **SECTION 2.** 100.43 (1) (k) of the statutes is created to read:

5 100.43 (1) (k) “Vapor device” means an electronic device that is used to convert
6 liquid nicotine into vapor that is inhaled by the individual using the device.

7 **SECTION 3.** 100.43 (2) of the statutes is renumbered 100.43 (2) (a).

8 **SECTION 4.** 100.43 (2) (b) of the statutes is created to read:

9 100.43 (2) (b) The department shall promulgate rules requiring special
10 packaging for liquid nicotine, except that these rules shall not apply to liquid nicotine
11 contained in disposable packaging that is filled and sealed by the manufacturer and
12 intended for use in a vapor device, and that is not intended to be opened by the
13 consumer. The rules promulgated under this paragraph shall meet the specifications
14 under 16 CFR 1700.15 (b), as amended to the effective date of this paragraph [LRB
15 inserts date], when tested by the method under 16 CFR 1700.20, as amended to the
16 effective date of this paragraph [LRB inserts date].

17 **SECTION 5. Nonstatutory provisions.**

18 (1) EMERGENCY RULES. Using the procedure under section 227.24 of the statutes,
19 the department of agriculture, trade and consumer protection shall promulgate the
20 rules required under section 100.43 (2) (b) of the statutes, as created by this act, for
21 the period before the effective date of the permanent rules promulgated under
22 section 100.43 (2) (b) of the statutes, as created by this act, but not to exceed the
23 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
24 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
25 (b), and (3) of the statutes, the department is not required to provide evidence that

ASSEMBLY BILL 502

1 promulgating a rule under this subsection as an emergency rule is necessary for the
2 preservation of the public peace, health, safety, or welfare and is not required to
3 provide a finding of emergency for a rule promulgated under this subsection.
4 Notwithstanding section 227.24 (1) (e) 1d. of the statutes, the department is not
5 required to prepare a statement of the scope of the rules promulgated under this
6 subsection. Notwithstanding section 227.24 (1) (e) 1g. of the statutes, the
7 department is not required to present the rules promulgated under this subsection
8 to the governor for approval.

9 (END)