

Clearinghouse Rule 98-159

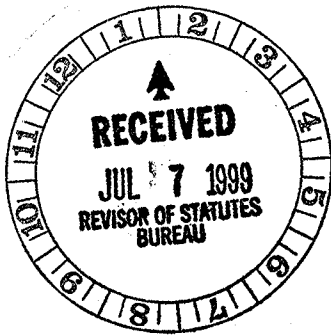
STATE OF WISCONSIN)
DEPARTMENT OF AGRICULTURE,) ss.
TRADE AND CONSUMER PROTECTION)

Docket No. 98-R-12
98-159

CERTIFICATION:

I, Ben Brancel, Secretary, State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Department, do hereby certify that the annexed order modifying chapter ATCP 139, Wisconsin Administrative Code, relating to consumer product safety was duly approved and adopted by the Department on June 30, 1999.

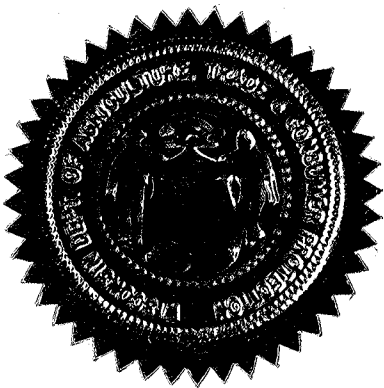
I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 30 day of June, 1999.

Ben Brancel

Ben Brancel
Secretary



**ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING AND AMENDING RULES**

1 The state of Wisconsin department of agriculture, trade and consumer protection adopts
2 the following order to renumber ATCP 139.05(3)(intro.) and (a) to (e); to amend ATCP
3 139.01 (intro.); to repeal and recreate ch. ATCP 139(title) and ATCP 139.05(title); to
4 create ch. ATCP 139(note), 139.01(3) and (5), 139.055(title) and 139.055(6) to (8),
5 relating to consumer product safety.

**Analysis by the Department of
Agriculture, Trade and Consumer Protection**

Statutory authority: ss. 93.07(1), 100.20(2) and 100.42(2), Stats.

Statutes interpreted: ss. 93.07(1), 100.20(2) and 100.42, Stats.

The department of agriculture, trade and consumer protection currently administers laws related to unfair business practices, consumer product safety, and hazardous household substances. The department currently administers hazardous substance rules under ch. ATCP 139, Wis. Adm. Code.

This rule retitles the department's current rules to address unsafe consumer products as well as hazardous substances. This rule also bans the following consumer products which pose safety hazards to children:

- Children's bicycle helmets that fail to meet federal safety standards.
- Children's clothing with drawstrings that present a serious safety hazard.

1 **SECTION 3.** ATCP 139.01(intro.) is amended to read:

2 **ATCP 139.01 Definitions.** In addition to definitions under ~~ss.~~ ss. 100.37 and
3 100.42, Stats., the following shall apply in the interpretation and enforcement of this
4 chapter:

5 **SECTION 4.** ATCP 139.01(3) is created to read:

6 ATCP 139.01(3) "Neck area" means the area one inch above and below the seam
7 between the body of a garment and the collar or hood.

8 **SECTION 5.** ATCP 139.01(5) is created to read:

9 ATCP 139.01(5) "Upper outerwear" means clothing, such as jackets and
10 sweatshirts, that is generally intended to be worn over other garments.

11 **SECTION 6.** ATCP 139.05 (title) is repealed and recreated to read:

12 **ATCP 139.05 Hazardous toys and children's articles; general.**

13 **SECTION 7.** ATCP 139.055(title) is created to read:

14 **ATCP 139.055 Banned toys and children's articles.**

15 **SECTION 8.** ATCP 139.05(3)(intro.) and (a) to (e) are renumbered ATCP
16 139.055(intro.) and (1) to (5).

17 **SECTION 9.** ATCP 139.055(6) to (8) are created to read:

18 ATCP 139.055(6) Children's bicycle helmets, manufactured or imported into the
19 United States after March 10, 1999, that do not meet the federal bicycle helmet safety
20 standard under 16 CFR 1203.

21 (7) Children's clothing, sizes 0 to 16, with drawstrings in the neck area.

1 (8) Children's upper outerwear, sizes 0 to 16, with a drawstring at the waist or
2 bottom of the garment, unless all the following apply:

3 (a) Not more than 3 inches of any drawstring is outside the drawstring channel
4 when the garment is expanded to its fullest width.

5 (b) There is no toggle, knot or other attachment at the free end of any drawstring.

6 (c) Every drawstring is sewn to the garment at the midpoint of the drawstring
7 channel so the drawstring cannot be pulled out of the channel.

8 **EFFECTIVE DATE.** (1) Except as provided in sub. (2), the rules contained in
9 this order shall take effect on the first day of the month following publication in the
10 Wisconsin administrative register, as provided in s. 227.22(2)(intro.), Stats.

11 (2) ATCP 139.055(7) and (8), as created by this rulemaking order, shall take
12 effect on January 1, 2000.

13
14 Dated this 30 day of June, 1999.

15 STATE OF WISCONSIN
16 DEPARTMENT OF AGRICULTURE,
17 TRADE AND CONSUMER PROTECTION
18

19
20
21 By Ben Brancel
22 Ben Brancel
23 Secretary



State of Wisconsin
Tommy G. Thompson, Governor



Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

DATE: June 30, 1999

TO: Gary Poulson - Revisor of Statutes Office
131 West Wilson Street, Suite 800

FROM: Ben Brancel, Secretary *Ben Brancel*

SUBJECT: **Clearinghouse Rule No. 98-159, Chapter ATCP 139, Relating to Safety Standards for Children's Bicycle Helmets and Drawstrings in Children's Clothing**

The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing with the above rule.

Final Regulatory Flexibility Analysis

Consumer Product Safety

ATCP 139.05, Wis. Adm. Code, currently prohibits from sale in Wisconsin certain types of toys and other articles intended for use by children which present a mechanical hazard and an unreasonable risk of personal injury or illness. The rule lists products such as toys with small components which may be ingested or sharp protrusions which may cause lacerations and finds that the public health and safety can be protected only by keeping these products out of the channels of commerce. The proposed rule will add two items to this list of products, children's bicycle helmets which do not meet the federal safety standards and certain kinds of children's clothing, sizes 0 to 16, with drawstrings.

It is foreseen that the impact of these amendments will have little or no effect on small businesses in regard to the sale of bicycle helmets and children's clothing without drawstrings.

Children's Bicycle Helmets

Under the Children's Bicycle Helmet Safety Act of 1994, the Federal Consumer Product Safety Commission (CPSC) issued a safety standard that requires all bicycle helmets to meet impact-attenuation and other safety requirements. The standard includes requirements specifically applicable to children's helmets and requirements to prevent children's helmets from coming off during an accident.

The federal rule was effective March 10, 1999, and applies to bicycle helmets manufactured after that date. Interim mandatory standards went into effect in 1995, and applied to bicycle

helmets manufactured from 1995 until March 10, 1999, inclusive. Firms have the option of marketing and selling helmets meeting the new standard before its effective date.

The federal rule was announced in 1998 to give small businesses adequate time to adjust their inventories and prepare to purchase new products. Since the new standard allows for the continued sale of inventory manufactured prior to March 1999, which meets the 1995 safety standards, there will be no impact on small businesses as they deplete existing inventory. Adopting this federal standard into law in the Wisconsin Administrative Code will incorporate all applicable dates for sale of new and old inventory and harmonize state and federal law.

Drawstrings on Children's Clothing

In 1996, the federal Consumer Product Safety Commission (CPSC) issued guidelines to help prevent children from being strangled by or getting entangled in drawstrings. These guidelines recommend that manufacturers and retailers provide clothing with alternative closures, such as snaps, buttons, velcro and elastic, rather than drawstrings. CPSC also recommended that consumers purchase children's clothing with these alternative closures and remove all drawstrings from children's clothing already in their possession.

The proposed amendment will ban the sale of children's clothing, sized 0 to 16, manufactured after January 1, 2000, that has drawstrings on the neck area and children's outerwear with drawstrings, unless the garment meets the CPSC standards for drawstrings on children's outerwear. Because the majority of manufacturers and retailers have been following the CPSC guidelines voluntarily, these proposed rules should have no significant impact on small business in Wisconsin.

Since 1985, there have been 20 deaths and 43 injuries to children involving drawstrings. Because drawstrings on children's clothing are a hidden hazard that can lead to deaths and injuries, the interest of public safety far outweighs any potential cost to small businesses as a result of the proposed rule.

Based on the information above, the proposed rules are not expected to have a significant adverse impact on small businesses.

Comments from Legislative Committees

On May 3, 1999, this department transmitted the above rule for legislative committee review. On May 5, 1999, this rule was assigned to the Senate Committee on Judiciary and Consumer Affairs. On May 11, 1999, the rule was assigned to the Assembly Committee on Consumer Affairs. The committee review period expired on June 11, 1999. No action was taken during the review period by the committees.