



DUEY STROEBEL

STATE SENATOR • 20TH DISTRICT

Testimony on SB 459

December 14, 2017

Good morning fellow committee members. SB 459 is an important reform aimed at reducing the regulatory burden imposed on Wisconsin's farmers, entrepreneurs and small business owners.

According to the Legislative Audit Bureau the state of Wisconsin regulates 293 air pollutants that are not regulated by the federal government. A total of 481 air pollutants are regulated at the state and federal level in our state. When the Audit Bureau reviewed these regulations they found that only 94 of the 293 exclusively state regulated pollutants are actually emitted.

Since these regulations were put in place there have been major changes to the administrative rule-making process. In early 2011 the legislature brought more clarity to the process by requiring economic impact statements for proposed rules and mandating that the governor and department secretaries sign off on scope statements before rules are drafted. More recently, this legislature enacted the REINS Act, which gives the legislature a greater role in the review of costly proposed regulations.

These significant changes to the administrative rules process, combined with the fact that 68% of state regulated air pollutants are not emitted, strongly suggest that it is time to review these regulations. Regulation must intersect with reality, and SB 459 requires the DNR to re-promulgate all state air pollutant rules using the reformed administrative rules process. A process that is good for new rules is a process that is also good for the review of existing rules. Additionally, SB 459 requires that re-promulgated and future state air pollutant regulations expire every 10 years, thus triggering another round of review.

The review process contained in this legislation is not a unique concept for air quality regulations. The federal Clean Air Act requires the Environmental Protection Agency to review National Ambient Air Quality Standards (NAAQS) every 5 years. Providing for a once-a-decade review of state air regulations guarantees that the state must assess regulations in light of new data and ongoing technological developments.

To be clear, nothing about this bill changes how Wisconsin implements federally mandated air regulations, and nothing in this bill bars the DNR from promulgating state air regulations.

Senate Amendment 1, which I introduced after productive feedback from the Assembly hearing on this legislation, gives the DNR 36 months to re-promulgate state air rules that they wish to keep. This will ensure a stable regulatory environment during the transition and give

DNR the time it needs to properly assess existing regulations. Additionally, the amendment allows DNR to begin the repromulgation process at any point in the 10 year existence of a rule.

Small businesses and entrepreneurs who may need to obtain emissions permits for their operations are forced, under the current structure, to assess whether or not they meet one of three standards, all of which may apply under the current patchwork of regulation. Having the DNR review this structure on a regular basis will result in needed analysis as to which regulations are necessary and which should be modified.

Thank you.



JESSE KREMER

STATE REPRESENTATIVE • 59TH ASSEMBLY DISTRICT

*Testimony before the Committee on Government Operations, Technology and Consumer Protection
State Representative Jesse Kremer
December 14, 2017*

Good morning Chairman Stroebel and Government Operations, Technology and Consumer Protection Committee members. I would like to thank you for holding a hearing on our bills in a package of "No Growth Zone" reforms. The issues that we will be discussing today provide unnecessary regulatory burdens on local businesses and stifle growth in certain areas of the state.

It is important to understand that, although these bills are clean air related, neither SB459 nor SB466 are intended to lower the regulatory level of air pollutants.

Let me begin by briefly addressing SB459, the DNR's rules regarding hazardous air pollutants. We currently regulate 293 more potential air pollutants than the federal government. Of these 293 pollutants, only 94 were actually emitted based on the most recent Legislative Audit Bureau report.

This bill is a simple review of rules, similar to the REINS Act – a public accountability and transparency measure. In short, the regulations related to state monitored air pollutants will sunset every ten years and can be re-visited by the DNR, using current scientific data, to re-promulgate rules that should remain in effect. It should be noted that the federal government uses a similar process, but on a five year rotation. In essence, SB459 will align Wisconsin's regulation of air pollutants more closely to the federal regulatory review process.

I thank you for this opportunity to testify before the committee today and urge your support for the State Air Emissions Rules Review, Senate Bill 459.



To: Members of the Senate Committee on Government Operations,
Date: December 14, 2017
From: Sarah Barry, Director of Government Relations
Re: Opposition to SB 459 & SB 466, Air Quality Reduction Proposals

Clean Wisconsin is a non-profit environmental advocacy group focused on clean water, clean air and clean energy issues. We were founded forty-seven years ago as Wisconsin's Environmental Decade and we have 20,000 members and supporters around the state.

Senate Bill 459, Air Quality Protection Reduction

This proposal will require Wisconsin to remove critical protective standards for emissions of hazardous air pollutants in the state. In 1988 Wisconsin created rules to protect communities from unsafe exposure to known pollutants. In 2004, these rules were revisited and updated with the support of a broad coalition of stakeholders, including business and industry. These protections have functioned well in Wisconsin, reducing unhealthy exposure to airborne hazards in a reasonable and functional way. Many other states, including our neighbors in Minnesota, Michigan, and Ohio, also have robust state-level standards of air pollutants that, as our DNR pointed out during a 2004 revision process, "plug important gaps in the federal hazardous air pollution rules."

There is a common interplay between federal and state regulations. While the federal government sets limits for air emissions that impact the entire country, they often allow states to set limits on pollutants when there are local or regional considerations. As our DNR pointed out, ammonia and mineral spirits (stoddard solvents) are not regulated under the federal program. Emissions of these two pollutants in Wisconsin exceed one million pounds each annually. These pollutants are regulated under NR 445 for their acute non-cancer health effects and, in the case of ammonia, for chronic health impacts.

Our DNR also highlighted the fact that the federal-level protections may not address the most dangerous air pollution emissions in Wisconsin. This is because those federal standards frequently apply only to very large facilities with tall exhaust towers and other measures to reduce public exposure. It is the state-level protections that provide safety for people who may be exposed to the pollution from smaller facilities that often are located near residential neighborhoods and have fewer measures in place, and therefore can pose a far greater public exposure and health risk.

The state protections for air pollutants are based on information from the American Conference of Governmental Hygienists, the National Toxicology Program, and the International Agency for Review of Carcinogens. These pollutants are identified as dangerous to human health in unsafe exposure amounts. Health effects include irritation of eyes and respiratory tract, headaches and nausea, increased cancer risk, and central nervous system and non-respiratory body organ effects. Under this proposal, the Wisconsin Legislative Council estimates that there will no longer be protections on 358 hazardous air pollutants in

population. For example, in Wisconsin asthma affects about 550,000 residents, including 1 in 13 children, and leads to over 18,500 emergency department visits, 5,000 hospitalizations, and an estimated cost of over \$100 million a year.

The Kohler-Andrae site is specifically designed to determine whether air quality in the area meets the requirements of the National Ambient Air Quality Standard to protect health, to detect elevated pollutant levels of ozone, and to provide pollutant levels for the daily air quality reporting and alerts that allow people to avoid exposure during the worst days. Those air quality alert days happen every summer in communities in Wisconsin, including in Sheboygan County, when children and others with asthma or other respiratory illness stay inside because the air is unsafe.

There is no question that ozone pollution is a regional problem in eastern Wisconsin and around Lake Michigan. Precursors to ozone pollution come from many places, including both local sources and sources outside of the state. While the Clean Air Act works to ensure that air quality is safe in a local area, those outside regional sources are also monitored, and held accountable for their contributions by regulations like the federal Cross-State Air Pollution Rule. This accountability is possible because of data from monitors like Kohler-Andrae, which was placed in a location where it could best measure regional ozone pollution.

Because of where the monitor was placed, it was not intended to measure peak ozone levels and exposures. Instead, its regional focus means that data the monitor provides is more akin to "background levels" of pollution; different local conditions can cause the ozone levels in those areas to be higher or lower. For example, additional local sources of pollution like vehicle traffic in an urban area or from an industrial facility would not be captured by the Kohler-Andrae monitor. What the data from that site has shown is that those background levels are already unsafe in Sheboygan County in areas close to the lakeshore like the City of Sheboygan.

It is critical that members of the public have information about what they are breathing and how it can impact health. Removing a monitor will not change the fact that there are elevated and unsafe levels of air pollutants in a community.

It does not make sense to have less information about air quality in Wisconsin and we urge you to oppose Senate Bill 466.



ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

December 14, 2017

Testimony before the Wisconsin State Senate Committee on Government Operations, Technology and Consumer Protection Opposing SB 459, Air Quality Reduction Proposal

My name is Andy Olsen and I am a Senior Policy Advocate with the Environmental Law & Policy Center of the Midwest (ELPC), working from the Wisconsin office. Thank you for this opportunity to testify on SB 459.

ELPC opposes SB 459 for a number of reasons. At ELPC we believe it is not only possible but necessary to protect our natural heritage and public health while growing the economy. Wisconsin residents must be protected from toxic air pollution, and they have a right to know what pollutants are being discharged into our communities. SB 459, however, is at odds with DNR's mission "to provide a healthy, sustainable environment" and "to carry out the public will."

SB 459 would enact an unnecessary and sweeping radical repeal of regulatory protections on toxic air pollution. While the laws would remain on the books, the administrative rules implementing those laws would be *repealed* by the end of next year -- as described by both the Wisconsin Department of Administration and the Legislative Reference Bureau.

Most problematic is that SB 459 does not require the promulgation of regulations that are necessary to carry out the remaining laws by the date when existing regulations would be repealed. This is troubling because proponents of the bill have not demonstrated that the statutes remaining in force would be successfully implemented after the current regulations are rescinded. Without these rules there will be greater uncertainty, and enforcement of the law would be unlikely.

We oppose this bill in its entirety, but if the legislation moves forward, we urge you to amend SB 459 to require that existing administrative rules be kept until replacements are promulgated.

At ELPC we frequently see examples where the private sector innovates to find new solutions to reduce or eliminate pollution, and that innovation should be encouraged. SB 459, however, would discourage such innovation, putting our state behind the technological curve.

Instead, this legislation adopts a defeatist approach to preventing toxic air pollution. Instead of trusting the abilities of private industry to rise to the challenge of cutting or eliminating toxic air pollution, this bill presumes that the private sector is incapable of efficiently innovating.

Contrary to that attitude, the history of public health and clean air programs shows that the private sector can and does innovate to efficiently cut pollution, when called to. Legislators should show more confidence in private industry to innovate by opposing SB 459.

Wisconsin's regulation of toxic air pollutants is appropriate and necessary under the Clean Air Act (CAA), which leaves to states the responsibility for regulating these toxic pollutants from smaller sources. Contrary to sponsor claims, SB 459 goes far beyond the rule review established in the CAA by requiring actual repeal of administrative rules. While the CAA does require regulations be reevaluated, it does *not* automatically repeal the rules, leaving none in place.

SB 459 fails to protect the people of Wisconsin from toxic air pollution. As others have noted, this would increase toxic air pollution in Wisconsin. This approach reflects an attitude among some that there exists a fictitious "right to pollute." There is not. Few people would argue for a right to dump trash into a neighbor's yard or empty raw sewage into our rivers and streams, so sponsors should explain why they feel it's acceptable to use our air as a dumping ground for unrestrained toxic pollution.

SB 459 withdraws information from the citizens of Wisconsin regarding pollutants released into our communities. With the repeal of the rules we will also lose reporting requirements. This reduces the ability of citizens to recognize dangers and to protect their families and themselves. When it comes to toxic air pollution, ignorance is not bliss; rather it is dangerous to public health.

Pollution harms public health. Besides the threats to our families' safety and quality of life, pollution has monetary impacts, imposing involuntary costs on citizens and communities. Pollution is a form of taxation that threatens our health, affects our personal finances (required for health care or to move away from polluters) and demands clean-up funds from local communities that must bear the costs of pollution shrugged off by the polluters.

Rather than make us accept pollution, we should insist that polluters accept responsibility for their actions, literally to clean up their act. Personal responsibility is a widely recognized virtue, which should also apply to polluters.

The underlying assumption reflected in this bill is that we can somehow pollute our way to prosperity. As if the more you allow pollution in Wisconsin, the better off Wisconsin will be. This false choice turns reality on its head. Pollution impoverishes people, harms families and damages our communities. Innovation, modern technology and regulatory protections increase health, wealth and quality of life.

Wisconsin can do better. ELPC calls upon the Wisconsin legislature to reject SB 459 and its companion bill, AB 587.



WISCONSIN MANUFACTURERS & COMMERCE

**TESTIMONY BEFORE THE SENATE COMMITTEE ON GOVERNMENT
OPERATIONS, TECHNOLOGY, AND CONSUMER PROTECTION IN
SUPPORT OF SENATE BILL 459**

Chairman Stroebel and Committee Members:

Thank you for the opportunity to testify today. My name is Lucas Vebber and I am the General Counsel and Director of Environmental and Energy Policy at Wisconsin Manufacturers & Commerce (WMC). WMC is Wisconsin's Chamber of Commerce and Manufacturers' Association. With members of all sizes and throughout all sectors of Wisconsin's economy, we are the largest business trade association in the state. Since our founding in 1911 we have been committed to making Wisconsin the most competitive state in the nation in which to do business. I am here today to testify in support of Senate Bill 459, as well as Senate Amendment 1.

This legislation deals with Wisconsin-specific regulations that go above and beyond what is mandated by federal law. The federal Clean Air Act regulates a number of air pollutants both as criteria pollutants and as hazardous air pollutants. Wisconsin law requires the Department of Natural Resources (DNR) to regulate all federally mandated pollutants and allows DNR to be more stringent and regulate additional air pollutants beyond what is mandated by federal law. Wisconsin has done this by adding hundreds of additional hazardous air pollutants on top of what is required by federal law, many of which are not even emitted by sources in Wisconsin.

Importantly, this legislation in no way changes DNR's ability to set Wisconsin-specific hazardous air pollution standards that go above and beyond what is required to comply with the Clean Air Act. This bill simply requires that when DNR does so, they revisit those Wisconsin-specific standards every ten years. Once passed, DNR would be required to review and re-promulgate the existing standards, and then repeat that process every decade with full public involvement to ensure a transparent process.

With these simple reforms the only thing that will change in Wisconsin law is to add more public involvement in the regulatory process.

Thank you for the opportunity to testify, I would be happy to answer any questions that you may have today.

WISCONSIN STATE SENATE

Public Hearing

Written Testimony

Virginia E. Jacob

Name

12/14/17

Date

148081 French Rd.

Street Address or Route Number

Elkhart Lake, WI 53020

City/Zip Code

Elkhart Lake Improvement Assoc.
Organization (if applicable) member

Subject

Toxic Air Emission not limited

Registering: In Favor ☐ Against ☒

I am here as a private citizen

I am trying to understand why taking away
all Wisconsin DNR regulations for protecting
citizens against air pollution is a good thing. ??

Actions like this will condemn people
who have asthma, COPD, and other lung
or respiratory diseases to even more suffering
and the need for more and often costly
medication and/or hospitalization.

I understand how this can help businesses
I just don't understand how this can be good
for our health.

P.S. I have 5 beautiful grandsons

3 of them have inhalers.