



2021 SENATE BILL 1039

March 9, 2022 - Introduced by Senators TESTIN and STROEBEL, cosponsored by Representatives DITTRICH, MACCO, SCHRAA and HORLACHER. Referred to Committee on Health.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to create* 252.03 (2g) and 252.03 (2r) of the statutes; **relating to:** local
2 health officer orders to control the 2019 novel coronavirus.

Analysis by the Legislative Reference Bureau

Currently, local health officers have the statutory authority to do what is reasonable and necessary for the prevention and suppression of disease and forbid public gatherings when necessary to control outbreaks or epidemics among other public health powers. In addition, local health officers must take all measures necessary to prevent, suppress, and control communicable diseases and report those measures to the appropriate governing body along with the progress of the communicable disease.

This bill prohibits a local health officer from ordering the closure of or forbidding gatherings in places of worship to control outbreaks and epidemics of the 2019 novel coronavirus, which causes COVID-19. Also, under the bill, a local health officer may not directly enforce an order or directive to close or restrict the capacity of businesses to control outbreaks and epidemics of the 2019 novel coronavirus. To enforce any order or directive to control an outbreak or epidemic of the 2019 novel coronavirus, the local health officer, after issuing the directive, must petition a court to enforce the directive under the existing procedure for quarantine and isolation court orders established by the Department of Health Services by rule. If the order or directive seeks to close or restrict capacity of businesses, the local health officer must first have approval by the committee of the local governmental unit that deals with matters related to health to petition the court to seek enforcement of the order. The approval must be within five business days of the request by the local health

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officer in order to seek a court order for enforcement. The court may order a remedy prescribed by DHS by rule or a penalty established by county, city, or village ordinance if the courts finds a failure or refusal to comply with or obstruction of execution of a directive issued under the provision of the bill.

Currently, the federal Transportation Security Administration administers a list of individuals who are prohibited from boarding an airplane because those individuals are contagious with an infectious disease. The bill prohibits a local health officer from submitting the name of any individual to the TSA or other federal agency for inclusion on that “do not board” list and from negotiating the terms of removal of an individual from that list.

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

1 **SECTION 1.** 252.03 (2g) of the statutes is created to read:

2 252.03 (2g) (a) In this subsection, “local governmental unit” means a city,
3 village, town, or county.

4 (b) A local health officer may not order the closure of or forbid gatherings in
5 places of worship to control outbreaks and epidemics of the 2019 novel coronavirus.

6 (c) No order or directive by a local health officer to close or restrict the capacity
7 of businesses to control outbreaks and epidemics of the 2019 novel coronavirus may
8 be directly enforced except as provided under par. (d).

9 (d) A local health officer seeking to enforce an order or directive against any
10 person, establishment, or business that is issued for the purpose of controlling an
11 outbreak or epidemic of the 2019 novel coronavirus shall issue the directive and
12 petition a court in the manner consistent with s. DHS 145.06, Wis. Adm. Code, in
13 effect on January 15, 2021, for enforcement of the directive. If the order or directive
14 the local health officer seeks to enforce by petitioning the court under this paragraph
15 is an order or directive to close or restrict capacity of a business, the local health
16 officer may petition the court to enforce the order or directive only if the committee
17 that deals with health matters of the local governmental unit in which the local

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1 health officer has jurisdiction approves the local health officer's request to petition
2 the court within 5 business days of the local health officer making the request for
3 approval. As a remedy for failure or refusal to comply with or obstruction with the
4 execution of a directive issued in a manner consistent with this subsection, the court
5 may order a remedy prescribed by the department by rule or may order any other
6 penalty established by ordinance of the applicable county, city, or village.

7 **SECTION 2.** 252.03 (2r) of the statutes is created to read:

8 252.03 (2r) A local health officer may not do any of the following:

9 (a) Submit the name of any individual to the federal transportation security
10 administration or other federal agency for inclusion on a list of individuals who are
11 prohibited from boarding an airplane due to suspected infection with a
12 communicable disease.

13 (b) Negotiate the terms of removal of an individual from the list described
14 under par. (a).

15 (END)