

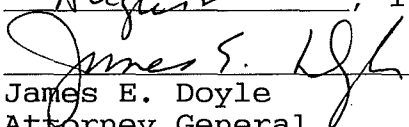
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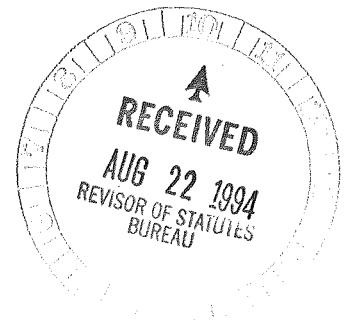
STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

I, James E. Doyle, Attorney General of the State of Wisconsin and custodian of the official records, certify that the annexed rules, relating to the sale and distribution of products containing oleoresin of capsicum to private adult citizens, were duly approved and adopted by this agency on this 18<sup>th</sup> day of August, 1994.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 114 E Capitol in the city of Madison, this 18<sup>th</sup> day of August, 1994.

  
James E. Doyle  
Attorney General  
State of Wisconsin



10-1-94

ORDER OF THE WISCONSIN DEPARTMENT OF JUSTICE

Creating Administrative Rules

Introduction:

The Wisconsin Department of Justice proposes an order to create chapter JUS 14 , relating to the sale and distribution of oleoresin of capsicum products to private citizens.

Analysis:

For creating JUS 14:

Statutory Authority: ss.941.26(4)(i)2. and (j)2., and  
227.11(2)(B)

Statutes Interpreted: 941.26(4)(i)2. and (j)2.

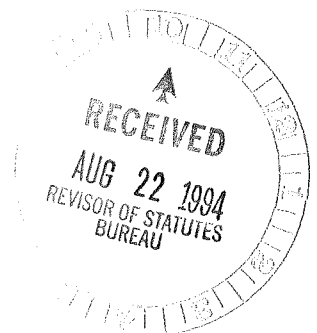
The principal substantive provisions in the created JUS 14 concern the sale and distribution of products containing oleoresin of capsicum to private adult citizens in Wisconsin. Specifically, the new rules establish requirements for the content, performance, labeling, packaging, and safety instructions, for OC products sold in Wisconsin for use by private adult citizens for solely defensive purposes.

The rules will set the maximum allowable amount of oleoresin of capsicum and the minimum and maximum allowable effective ranges for the OC product. The rules will require each OC product to have a safety device so as to prevent unintentional discharge and will prohibit the sale of any OC product which does not have the appearance of an aerosol canister.

The rules will establish minimum requirements for the labeling and packaging of the OC product and mandate certain written safety instructions.

Regulatory Flexibility Analysis:

The following proposed rules were drafted after receiving substantial input from manufacturers, distributors, and vendors of OC products, and after consideration of recommendations from law enforcement agencies. These rule requirements are currently being met by most of the OC products being sold in other states and consequently the rules should have a minimal impact on any small businesses which should choose to sell OC products in Wisconsin.



SECTION 1. Chapter JUS 14 is created to read:

CHAPTER JUS 14 , RULES AS TO THE SALE AND DISTRIBUTION  
OF OC PRODUCTS TO PRIVATE CITIZENS

JUS 14.01 STATUTORY AUTHORITY. This chapter is established and adopted in compliance with s. 941.26(4)(i)2. and (j)2., Stats.

JUS 14.02 OBJECTIVES. The objectives of chapter JUS 14 are to establish content, performance, labeling, packaging and safety requirements of OC products sold in Wisconsin for use by private individuals for solely defensive purposes.

JUS 14.03 DEFINITIONS. In this chapter:

(1) "Aerosol canister" means a cylinder shaped container in which a gas under pressure or low boiling liquid is used to expel the contents containing the active ingredients.

(2) "Burst" means a firing of the OC product which lasts at least one- second in duration.

(3) "Camouflage OC product" means a device or container for the expulsion of oleoresin of capsicum which is designed to appear as something other than an aerosol canister.

(4) "Effective range" means that distance from which the OC product can be used effectively for defensive purposes.

(5) "Inert ingredients" means all ingredients of the aerosol canister, other than oleoresin of capsicum.

(6) "OC product" means an aerosol canister which contains oleoresin of capsicum and inert ingredients.

(7) "Oleoresin of capsicum" means the oleoresin extracted from fruits of plants of the genus Capsicum. The oleoresin contains the active ingredient capsaicin and related compounds classified as capsaicinoids.

(8) "Peace officer" means any person vested by law with a duty to maintain public order or to make arrests for a crime, whether that duty extends to all crimes or is limited to specific crimes.

JUS 14.04 EXCEPTIONS. Rules 14.05, 14.06, 14.07, 14.08, and 14.09, do not apply to sales for use by peace officers, armed forces, or national guard personnel.

JUS 14.05 MAXIMUM ALLOWABLE AMOUNT OF OLEORESIN OF CAPSICUM. An OC product that contains more than 10% of oleoresin of capsicum may not be sold in Wisconsin.

JUS 14.06 MINIMUM AND MAXIMUM EFFECTIVE RANGE. An OC product sold in Wisconsin may not have an effective range greater than 20 feet and shall have an effective range of at least 6 feet.

JUS 14.07 WEIGHT OF INGREDIENTS. An OC product sold in Wisconsin shall have a total weight of oleoresin of capsicum and inert ingredients of not less than 15 grams nor more than 60 grams.

JUS 14.08 PROHIBITION ON CAMOUFLAGE OC PRODUCTS. No camouflage OC product may be sold in Wisconsin.

JUS 14.09 SAFETY DEVICE. An OC product sold in Wisconsin shall have a safety feature designed to prevent unintentional discharge.

JUS 14.10 MINIMUM LABELING REQUIREMENTS. Any OC product sold in Wisconsin shall have affixed to the canister labeling with the following information:

(1) The percentage of the solution which is oleoresin of capsicum.

(2) The total combined weight of the oleoresin of capsicum and inert ingredients.

(3) The effective range of the OC product.

(4) The name of the manufacturer.

(5) The date on which the useful life of the OC product expires.

(6) A warning that the OC product may be used for defensive purposes only.

(7) A warning that the OC product may not be used or possessed by a person under the age of 18.

(8) A warning that the OC product causes temporary harm and a general description of the harm.

(9) First aid information regarding the treatment of persons exposed to oleoresin of capsicum.

JUS 14.11 STYLE OF PACKAGING. Any OC product sold in Wisconsin shall be in a sealed, tamper proof package.

JUS 14.12 MINIMUM INFORMATION TO BE INCLUDED IN THE PACKAGING. Any OC product sold in Wisconsin shall have all of the following information placed on the packaging so that it is visible to the potential purchaser:

(1) The name of the manufacturer.

(2) A general description of the OC product.

(3) A warning that the OC product may be used for defensive purposes only.

(4) A warning that the OC product may not be used or possessed by a person under the age of 18.

(5) A clear highlighted message cautioning the purchaser to read and follow the enclosed safety instructions.

JUS 14.13 MINIMUM WRITTEN SAFETY INSTRUCTION REQUIREMENTS. Any OC product sold in Wisconsin shall have included with the product separate written safety instructions which shall contain the following information:

(1) The proper procedure for using the OC product.

(2) A complete listing of all the ingredients.

(3) An approximation of the total amount of bursts of which the OC product is capable.

(4) A description of the physical effects caused by the OC product.

(5) The proper procedure for storing the OC product.

(6) First aid and decontamination procedures for persons exposed to oleoresin of capsicum.

(7) A phone number which can be contacted for further information about the OC product.

(8) A warning that the OC product shall be used for defensive purposes only.

(9) A warning that the OC product may not be used or possessed by a person under the age of 18.

The proposed rules contained in this order shall take effect on the first day of the month commencing after the date of publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro.), Stats.

Dated this 29th day of JUN, 1994.

WISCONSIN DEPARTMENT OF JUSTICE

David H. Perlman  
Assistant Attorney General

