



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 454**

March 14, 1996 - Offered by COMMITTEE ON LABOR AND EMPLOYMENT.

1 **AN ACT** *to renumber and amend* 893.89 (1); and *to create* 440.08 (2) (a) 64k.,  
2 subchapter X of chapter 440 [precedes 440.97] and 893.89 (1) (b) and (c) of the  
3 statutes; **relating to:** the regulation of persons involved in radon mitigation,  
4 granting rule-making authority and providing penalties.

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

5 **SECTION 1.** 440.08 (2) (a) 64k. of the statutes is created to read:  
6 440.08 (2) (a) 64k. Radon mitigator: January 1 of each odd-numbered year;  
7 \$41.

8 **SECTION 2.** Subchapter X of chapter 440 [precedes 440.97] of the statutes is  
9 created to read:

10 **CHAPTER 440**

11 **SUBCHAPTER X**

12 **REGISTRY OF RADON MITIGATORS**

13 **440.97 Definitions.** In this subchapter:

14 **(1)** "Building" has the meaning given in s. 101.125 (1) (a).

1           (2) “Client” means a person who contracts with a radon mitigator for radon  
2 mitigation.

3           (3) “Compensation” means direct or indirect payment, including the  
4 expectation of payment whether or not actually received.

5           (4) “Dwelling unit” means a structure or that part of a structure that is used  
6 or intended to be used as a home, residence or sleeping place by one person or by 2  
7 or more persons who are maintaining a common household, to the exclusion of all  
8 others.

9           (5) “Radon mitigation” means any method, including the use of any product or  
10 device, designed to eliminate or reduce the emission or accumulation of radon gas in  
11 a building.

12           (6) “Radon mitigator” means an individual who, for compensation, conducts  
13 radon mitigation.

14           (7) “Wisconsin registered radon mitigator” means an individual who is  
15 registered as a radon mitigator under this subchapter.

16           **440.971 Registry established.** The department shall establish a registry of  
17 radon mitigators.

18           **440.9712 Use of title.** (1) No individual may use the title “Wisconsin  
19 registered radon mitigator”, use any title or description that implies that he or she  
20 is registered under this subchapter or represent himself or herself to be registered  
21 under this subchapter unless the individual is registered under this subchapter.

22           (2) A business entity may use, in connection with the name or signature of the  
23 business entity, the title “Wisconsin registered radon mitigators” to describe the  
24 business entity’s services, if one business representative of the business entity is  
25 registered under this subchapter.

1           **440.972 Registration requirements.** (1) The department shall register an  
2 individual under this subchapter if the individual does all of the following:

3           (a) Submits an application for registration to the department on a form  
4 provided by the department.

5           (b) Pays the fee specified in s. 440.05 (1).

6           (c) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory  
7 to the department that he or she does not have an arrest or conviction record.

8           (d) Passes an examination under s. 440.973.

9           (2) The renewal date and renewal fee for certificates granted under this  
10 subchapter are specified under s. 440.08 (2) (a) 64k.

11           **440.973 Examinations.** (1) No person may be registered under this  
12 subchapter unless he or she passes an examination approved by the department.

13           (2) The department shall conduct examinations for radon mitigator  
14 registration at least semiannually at times and places determined by the  
15 department.

16           (3) An individual is not eligible for examination unless the individual has  
17 satisfied the requirements for registration under s. 440.972 (1) (a) to (c) at least 30  
18 days before the date of the examination.

19           **440.974 Rules.** (1) The department shall promulgate rules necessary to  
20 administer this subchapter, including rules to establish all of the following:

21           (a) Standards for acceptable examination performance by an applicant for  
22 registration.

23           (b) Standards for the practice of radon mitigation by Wisconsin registered  
24 radon mitigators.

1 (c) The information that a Wisconsin registered radon mitigator is required to  
2 provide to a client concerning the radon mitigation conducted by the Wisconsin  
3 registered radon mitigator.

4 (2) The department may promulgate rules establishing continuing education  
5 requirements for individuals registered under this subchapter. The rules  
6 promulgated under this subsection may require continuing education if it is  
7 necessary to preserve the public health, safety or welfare or as a part of the  
8 disciplinary process to ensure competency.

9 **440.975 Standards of practice.** (1) In this section, “reasonably competent  
10 and diligent radon mitigation” means radon mitigation that complies with the  
11 standards established under this subchapter or the rules promulgated under this  
12 subchapter.

13 (2) A Wisconsin registered radon mitigator shall perform reasonably  
14 competent and diligent radon mitigation to reduce radon in the building in which he  
15 or she is conducting the radon mitigation.

16 **440.976 Disclaimers or limitation of liability.** No Wisconsin registered  
17 radon mitigator may include, as a term or condition in an agreement to conduct radon  
18 mitigation, any of the following:

19 (1) A provision that disclaims the liability of the Wisconsin registered radon  
20 mitigator for his or her negligence.

21 (2) A provision that limits the amount of damages for liability of the Wisconsin  
22 registered radon mitigator to the amount of the fee or compensation paid to the  
23 Wisconsin registered radon mitigator for his or her radon mitigation.

24 **440.978 Discipline; prohibited acts.** (1) Subject to the rules promulgated  
25 under s. 440.03 (1), the department may make investigations or conduct hearings to

1 determine whether a violation of this subchapter or any rule promulgated under this  
2 subchapter has occurred.

3 (2) Subject to the rules promulgated under s. 440.03 (1), the department may  
4 reprimand a Wisconsin registered radon mitigator or deny, limit, suspend or revoke  
5 a certificate under this subchapter if the department finds that the applicant or  
6 Wisconsin registered radon mitigator has done any of the following:

7 (a) Made a material misstatement in an application for a certificate or renewal  
8 of a certificate.

9 (b) Engaged in conduct while practicing as a Wisconsin registered radon  
10 mitigator that evidences a lack of knowledge or ability to apply professional  
11 principles or skills.

12 (c) Subject to ss. 111.321, 111.322 and 111.335, been arrested or convicted of an  
13 offense committed while registered under this subchapter.

14 (d) Advertised in a manner that is false, deceptive or misleading.

15 (e) Advertised, practiced or attempted to practice as a Wisconsin registered  
16 radon mitigator under another person's name.

17 (f) Allowed his or her name to be used by another person while the other person  
18 was practicing or attempting to practice as a Wisconsin registered radon mitigator.

19 (g) Subject to ss. 111.321, 111.322 and 111.34, practiced as a Wisconsin  
20 registered radon mitigator while the individual's ability to practice was impaired by  
21 alcohol or other drugs.

22 (h) Acted as a Wisconsin registered radon mitigator in connection with a  
23 transaction in which he or she was also a principal, appraiser or broker without full  
24 disclosure to and the written consent of all parties to the transaction.

1 (i) Performed or agreed to perform any repairs, maintenance or improvements  
2 on any property less than 2 years after he or she conducts radon mitigation, without  
3 the written consent of the property owner given before the radon mitigation occurred.

4 (j) Paid in full or in part, for radon mitigation, a fee, a commission, or  
5 compensation as a referral or finder's fee, to any person who is not a Wisconsin  
6 registered radon mitigator.

7 (k) Violated this subchapter or any rule promulgated under this subchapter.

8 **(3)** In addition to or in lieu of proceeding under sub. (2), the department may  
9 assess against a person who has engaged in any of the practices specified in sub. (2)  
10 a forfeiture of not more than \$1,000 for each separate offense.

11 **(4)** In lieu of proceeding under sub. (1) or (2), the department may place, in a  
12 registry information file, a copy of a complaint received by the department against  
13 a Wisconsin registered radon mitigator, the radon mitigator's response to the  
14 complaint and a copy of any records of the department concerning the complaint. If  
15 the department establishes a registry information file under this subsection, the  
16 department shall use the following procedure:

17 (a) No later than 60 days after the date on which the department receives a  
18 complaint alleging that a Wisconsin registered radon mitigator has engaged in  
19 conduct that is grounds for discipline under sub. (2), the department shall provide  
20 the radon mitigator with a copy of the complaint and place a copy of the complaint  
21 and a copy of any records of the department concerning the complaint in the registry  
22 information file.

23 (b) After receiving a copy of the complaint under par. (a), the Wisconsin  
24 registered radon mitigator who is the subject of the complaint, or his or her  
25 authorized representative, may place in the registry information file a statement of

1 reasonable length describing the inspector's view of the correctness or relevance of  
2 any of the information contained in the complaint.

3 (c) The department shall make the complaint, the Wisconsin registered radon  
4 mitigator's response to the complaint, if any, and a copy of any records of the  
5 department concerning the complaint placed in a registry information file under this  
6 subsection available to the public.

7 (d) The department shall remove all complaints against and other information  
8 concerning a Wisconsin registered radon mitigator from the registry information file  
9 if, for a period of 2 years from the date of the most recent complaint filed in the  
10 registry information file, no further complaints have been filed against the radon  
11 mitigator.

12 (5) The department may, as a condition of removing a limitation on a certificate  
13 issued under this subchapter or of reinstating a certificate that has been suspended  
14 or revoked under this subchapter, do any of the following:

15 (a) Require the Wisconsin registered radon mitigator to obtain insurance  
16 against loss, expense and liability resulting from errors and omissions or neglect in  
17 the performance of services as a radon mitigator.

18 (b) Require the Wisconsin registered radon mitigator to file with the  
19 department a bond that is furnished by a company authorized to do business in this  
20 state and is in an amount approved by the department.

21 **440.979 Sunset provision; review of sunset provision.** (1) This  
22 subchapter does not apply after June 30, 2001.

23 (2) The department shall promulgate rules establishing a procedure for  
24 reviewing the registration of radon mitigators. If, after the completion of a review  
25 conducted under the rules promulgated under this subsection, the department

1 believes that continued registration of radon mitigators serves the interests of the  
2 public and the radon mitigation profession, the department shall introduce  
3 legislation to repeal or extend the date specified in sub. (1).

4 **SECTION 3.** 893.89 (1) of the statutes is renumbered 893.89 (1) (intro.) and  
5 amended to read:

6 893.89 (1) (intro.) In this section, ~~“exposure:~~

7 (a) “Exposure period” means the 10 years immediately following the date of  
8 substantial completion of the improvement to real property.

9 **SECTION 4.** 893.89 (1) (b) and (c) of the statutes are created to read:

10 893.89 (1) (b) “Improvement to real property” includes radon mitigation.

11 (c) “Radon mitigation” has the meaning given in s. 440.97 (5).

12 **SECTION 5. Effective date.**

13 (1) This act takes effect on the first day of the 7th month beginning after  
14 publication.

15 (END)