

2007 DRAFTING REQUEST

Assembly Amendment (AA-AA1-AB525)

Received: 02/12/2008

Received By: chanaman

Wanted: As time permits

Identical to LRB:

For: Sheryl Albers (608) 266-8531

By/Representing: Anne Sappenfield

This file may be shown to any legislator: NO

Drafter: chanaman

May Contact:

Addl. Drafters:

Subject: Criminal Law - victims

Extra Copies:

Submit via email: YES

Requester's email: Rep.Albers@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Require that the enforcement and inspection be lawful

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 02/12/2008	kfollett 02/12/2008		_____			
/1			jfrantze 02/12/2008	_____	mbarman 02/12/2008	mbarman 02/12/2008	

FE Sent For:

<END>

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Submit via email: **YES**

Requester's email: **Rep.Albers@legis.wisconsin.gov**

Carbon copy (CC:) to: *anne.sappenfield@legis.wisconsin.gov*

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1/?	chanaman	<i>1/5/08</i>	<i>2/1/08</i>	<i>2/1/08</i>			

FE Sent For:

<END>

Sappenfield, Anne

From: skalbers [skalbers@rucls.net]
Sent: Tuesday, February 12, 2008 11:13 AM
To: Sappenfield, Anne
Cc: Griffiths, Terri; Simatic, Kurt
Subject: RE: AB 525

sufficient notice

Point being that the increased penalty would not be applicable if the agency the inspector is employed failed to provide sufficient notice of inspection –

You are on track in terms of your proposal to require that the inspection or enforcement was done in a lawful manner, thus giving a defense to the party inspected who may have otherwise acted inappropriately.

The increased penalty could still be applicable in my opinion, if a person causes significant injury requiring emergency medical attention while the inspector type was performing their duties. Draft something up and let me look at it. I have a meeting with Zepnick coming up and will discuss it with him.

I also like the idea of giving the defendant an opportunity to show that the inspection or enforcement was not legal would be worthwhile language to incorporate.

substantive

Sheryl .

complex w/ any state

Y

From: Sappenfield, Anne [mailto:Anne.Sappenfield@legis.wisconsin.gov]
Sent: Tuesday, February 12, 2008 8:56 AM
To: skalbers
Cc: Griffiths, Terri
Subject: RE: AB 525

is does any applicable notice

Hi Sheryl--

I'm not sure I follow. It's not a bill that creates any type of immunity. It's a higher penalty if the DA can show that the defendant battered a person who was conducting an inspection or enforcing a building code, etc...

The term "victim" is from the bill and is used because it refers to the person who is the victim of a battery. It is typical language for criminal offenses. We can talk about changing it, but I think the paragraph will get long and, possibly, confusing.

What about adding an element that the inspection or enforcement was conducted pursuant to state and local laws and rules? I don't think you will gain much by trying to list any law that may apply, and there may be local ordinances, etc. that apply to these inspections or enforcements. By requiring that the inspection or enforcement was done in a lawful manner, you require the DA to show that and you give the defendant an opportunity to show that the inspection or enforcement was not legal.

Anne

From: skalbers [mailto:skalbers@rucls.net]
Sent: Monday, February 11, 2008 7:39 PM
To: Sappenfield, Anne
Cc: Griffiths, Terri
Subject: RE: AB 525

Anne: That seems vague – and I don't like using the term "the victim" in reference to the person engaging in

performing an inspection. When enforcing a zoning ordinance or building code or other construction code (commerce or ag), in order for this new section of immunity to be applicable, all laws and or code regarding notice must have been adhered to in advance of the on site inspection.

May need to be inserted in various section of the law regarding zoning (Chapter 59) and cross reference; building/construction inspections (Commerce) cross reference; DATCP – Cross Reference; and Chapter 66 Muni planning ...others? Sheryl

From: Sappenfield, Anne [mailto:Anne.Sappenfield@legis.wisconsin.gov]
Sent: Thursday, January 31, 2008 9:19 AM
To: skalbers@rucls.net
Subject: AB 525

Hi Rep. Albers--

For Rep. Zepnick's bill--what about this language?

The victim is **lawfully** enforcing or conducting a **lawful** inspection for the purpose of enforcing a state, county, city, village, or town zoning ordinance, buiding code, or other construction law, rule, standard, or plan at the time of the act or the act is in response to any such enforcement or inspection activity.

I think there are circumstances where notice need not be given, such as when a person consents to an inspector entering the property or when there is an emergency. Also, AA 1 takes out the threat language, so I think that decreases the possibility of people getting caught up in this law. It will only apply to people who intentionally cause bodily harm.

Let me know what you think.

Anne Sappenfield
Senior Staff Attorney
Legislative Council Staff
(608) 267-9485

TODAY

a1227/1

JGF

ASSEMBLY AMENDMENT ,
TO ASSEMBLY AMENDMENT 1,
TO 2007 ASSEMBLY BILL 525

1 At the locations indicated, amend the amendment as follows:

2 1. Page 2, line 14: after that line insert:

3 (B) "18m. Page 2, line 12: after that line insert:

4 "~~(2m)~~ Any notice required by law has been given.".

5 (END)

The enforcement or inspection complies with
any law, ordinance, or rule, including any
applicable notice requirement