

2013 DRAFTING REQUEST

Bill

Received: 12/19/2013 Received By: gmalaise
Wanted: Today Same as LRB:
For: Richard Gudex (608) 266-5300 By/Representing: Kyle (Kapenga)
May Contact: Drafter: rnelson
Subject: Administrative Law Addl. Drafters: gmalaise

Extra Copies:

Submit via email: YES
Requester's email: Sen.Gudex@legis.wisconsin.gov
Carbon copy (CC) to: robert.nelson@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Agency discretion in imposing penalties for minor rule violations by small businesses

Instructions:

See attached--draft companion to -3693/2

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>
/?	rnelson 12/19/2013	scalvin 12/19/2013		_____			
/1			rschluet 12/19/2013	_____	sbasford 12/19/2013	srose 12/20/2013	

FE Sent For:

↳ Not Needed

<END>

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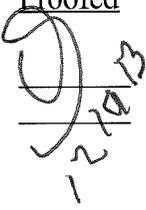
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/?	rnelson	/1 sac 12/19/2013	/1 sac 12/19/2013				

FE Sent For:

<END>

Malaise, Gordon

From: LRB.Legal
Sent: Thursday, December 19, 2013 12:03 PM
To: Malaise, Gordon; Duchek, Michael
Cc: Koenen, Kyle
Subject: FW: LRB 3693

Gordon and Mike: Rep. Kapenga would like the senate companion for LRB-3693 drafted for Sen. Gudex before Bob Nelson returns. Could one of you please see to it?

Thanks.
Stefanie

--

Stefanie Rose, Program Assistant
Wisconsin Legislative Reference Bureau
(608)266-3561
Stefanie.Rose@legis.wisconsin.gov

From: Koenen, Kyle
Sent: Thursday, December 19, 2013 11:56 AM
To: LRB.Legal
Cc: Burri, Lance
Subject: LRB 3693

Senator Gudex will be running a Senate version of LRB 3693/2, so Lance Burri from his office will be contacting LRB regarding the drafting of a Senate version of the bill. Please let me know if anything further is needed. Thank you.

Kyle Koenen
Research Assistant
Office of Rep. Chris Kapenga
99th Assembly District
220 North, State Capitol
(608)266-3007



State of Wisconsin
2013 - 2014 LEGISLATURE

12/19

Today - companion

2013 BILL

VGMM



LRB-3693/2

38704

RPN:sac:ts

stays

(It's in Bob's
inbox bc I entered
him as the dyer
since it's his state
Maybe Cathleen get it out?)

-gen cat

1 **AN ACT to repeal** 227.04 (2) (b), 895.59 (1) and 895.59 (2) (a) to (c); **to renumber**
2 227.04 (2) (a), (c) and (d), 895.59 (2) (d), 895.59 (2) (e) and 895.59 (2) (f); **to**
3 **renumber and amend** 227.04 (2) (intro.) and 895.59 (2) (intro.); **to amend**
4 227.04 (1); and **to create** 227.04 (1) (a), 227.04 (2m) (b) and 227.04 (2m) (d) of
5 the statutes; **relating to:** agency discretion in imposing penalties for minor
6 violations of rules by small businesses and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, public agencies are required to provide assistance to small businesses to help those small businesses comply with the rules promulgated by those agencies. Public agencies are required under current law to establish a rule that creates reduced fines and enforcement mechanisms for minor violations of agency rules by small businesses. Current law requires public agencies to consider the appropriateness of a written warning, a reduced fine, or an alternative penalty if the small business violates a rule, that small business has made a good faith effort to comply with the rule, and the minor violation does not pose a threat to public health, safety, or welfare.

In addition, under current law, each public agency is required to promulgate a rule that discloses in advance the discretion that the agency will follow in the enforcement of rules against a small business. The rule promulgated shall include a reduction or waiver of a penalty if the small business voluntarily discloses a rule

BILL

1 [^]
SECTION 3. 227.04 (2) (intro.) of the statutes is renumbered 227.04 (3) (intro.)
2 and amended to read:

3 227.04 (3) (intro.) Consistent with the requirements under ~~s. 895.59 sub. (2m)~~
4 and, to the extent possible, each agency shall do all of the following:

5 ^x
SECTION 4. 227.04 (2) (a), (c) and (d) of the statutes are renumbered 227.04 (3)
6 (a), (c) and (d).

7 ^x
SECTION 5. 227.04 (2) (b) of the statutes is repealed.

8 ^x
SECTION 6. 227.04 (2m) (b) of the statutes is created to read:

9 227.04 (2m) (b) The rule promulgated under this subsection shall specify the
10 situations in which the agency will allow discretion in the enforcement of a rule
11 against a small business that has committed a minor violation. The rule shall
12 consider the following criteria for allowing discretion in the enforcement of the rule
13 and the assessment of a penalty, including a forfeiture, fine, or interest:

14 1. The difficulty and cost of compliance with the rule by the small business.

15 2. The financial capacity of the small business, including the ability of the small
16 business to pay the amount of any penalty that may be imposed.

17 3. The compliance options available, including options for achieving voluntary
18 compliance with the rule.

19 4. The level of public interest and concern.

20 5. The opportunities available to the small business to understand and comply
21 with the rule.

22 6. Fairness to the small business and to other persons, including competitors
23 and the public.

24 ^v
SECTION 7. 227.04 (2m) (d) of the statutes is created to read:

Rose, Stefanie

From: Burri, Lance
Sent: Friday, December 20, 2013 9:11 AM
To: LRB.Legal
Subject: Draft Review: LRB -3870/1 Topic: Agency discretion in imposing penalties for minor rule violations by small businesses

Please Jacket LRB -3870/1 for the SENATE.