



**State of Wisconsin
Department of Workforce Development
Equal Rights Division**

NOTICE OF PUBLIC HEARING

Traveling Sales Crews

DWD 273

NOTICE IS HEREBY GIVEN that pursuant to ss. 103.34 (13) and 227.11, Stats., the Department of Workforce Development proposes to hold a public hearing to consider the creation of ch. DWD 273, relating to the regulation of traveling sales crews.

Hearing Information

**January 20, 2010
Wednesday
1:30 p.m.**

**MADISON
G.E.F. 1 Building, B103
201 E. Washington Avenue**

Interested persons are invited to appear at the hearing and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

Visitors to the GEF 1 building are requested to enter through the left East Washington Avenue door and register with the customer service desk. The entrance is accessible via a ramp from the corner of Webster Street and East Washington Avenue. If you have special needs or circumstances regarding communication or accessibility at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 103.34 (13) and 227.11(2), Stats.

Statutes interpreted: Section 103.34(13), Stats.

Explanation of agency authority. Section 103.34, Stats., created by 2009 Wisconsin Act 3, provides for the regulation of traveling sales crews, which involves the employment of groups of persons as salespersons who travel to a variety of locations and sell consumer goods or services door to door. Section 103.34(13), Stats., provides the authority for rules interpreting the statute, establishing fees, and setting requirements for registration and safety.

Summary of the proposed rule. After providing brief statements on the authority, purpose and applicability of the rule, the proposed rule enumerates the items required for a certificate of registration. These include: a completed application form; two completed fingerprint cards (for the purpose of a criminal background check) for each person who is a proprietor, managing partner, manager, principal officer, employee, agent or representative of the traveling sales crew business who supervises or transports traveling sales crew workers; verification that the applicant has a surety bond, a certificate of deposit, an escrow account, or an irrevocable letter of credit, in the amount of at least \$10,000; a registration fee, in the amount of \$60 for each individual for whom a background check is required; a mechanic's certification that all vehicles to be used to transport sales crews are in compliance with all safety standards; copies of the information that is to be provided to employees describing the transportation to be provided, and any hazardous materials (such as cleaning supplies) that the crew may be storing, handling, transporting or otherwise having exposure to; and documents showing that the operator applicant has the required amount of insurance coverage.

The proposed rule provides that the Department will begin to process the application when it has received all of the required documents, and it will complete its processing of the application within 30 days of receipt of the results of the criminal background check.

The proposed rule specifies standards for the fingerprint cards that are to be submitted as part of the certification application, requires the applicant or certified operator to notify the Department of any change in information that has been submitted to the Department, and provides that a certificate of registration may be denied, suspended or revoked if the Department determines that the applicant or certified operator is not in compliance with the law.

The proposed rule specifies the employment and wage payment records that are to be maintained by a certified operator. The proposed rule requires that the vehicles used must meet all safety requirements and that the certified operator must provide written information to the crew members on the safe handling, storage and transportation of any products or other materials that accompany the crew in their vehicles.

The proposed rule describes the information that must be provided by the operator to the Department to obtain traveling sales crew member permits. This includes, for each crew member, a government picture ID, information on the area of recruitment, the locations where the crew will be working, a description of the duties of the crew members, a description of the products being sold, and a statement verifying that this information has been provided to the crew member. The proposed rule provides that permit applications will be processed and permits issued within ten days after the receipt of all application materials. The proposed rule provides that operators and crew members are required to carry permits and identification at all times while working.

The proposed rule provides that a person who is required to obtain a traveling sales crew member permit is entitled to file a claim for unpaid wages with the Department under sec. 109.09, Stats.

Summary of related federal law. There is no federal law which regulates traveling sales crews or which requires work permits for door to door sales.

Comparison with laws in adjacent states. None of the states adjacent to Wisconsin (Illinois, Iowa, Michigan and Minnesota) has a law which regulates traveling sales crews.

Summary of factual data and analytical methodologies. The proposed rule is based on the requirements of sec. 103.34, Stats.

Effect on small business. Because the proposed rule carries forward the requirements of the statute and does not establish new requirements, the proposed rule does not have an effect on small business.

Agency contact person. Timara Budack, Section Chief, Labor Standards Section, (608) 267-2495, Timara.Budack@dwd.wisconsin.gov .

Comments and deadline for submission. The proposed rules are available for review at the website <http://adminrules.wisconsin.gov> and may also be obtained by contacting Howard Bernstein, Office of Legal Counsel, Dept. of Workforce Development, P.O. Box 7946, Madison, WI 53707-7946, (608) 266-9427, or Howard.Bernstein@dwd.wisconsin.gov . Written comments on the rule may be submitted to the website or to Howard Bernstein by January 22, 2010, and will be given the same consideration as testimony presented at the hearing.

Secretary or designee

Date