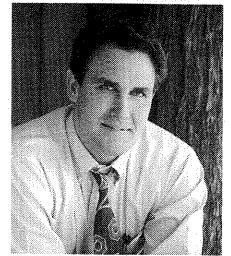


Frank Lasee

State Representative • 2nd Assembly District



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Date: December 18, 2001

To: Committee On Judiciary, Consumer Affairs, And Campaign Finance Reform

From: Representative Frank Lasee

Re: AB 280, placing bodily substances in edibles and providing a penalty

Let me first say that I hope you've all eaten already today.

I'm asking for your support for a bill I first authored during the 1997 session, in response to an unbelievable situation one of my constituents found herself in. Marilyn Leubke, of Manitowoc, discovered in 1995 that a co-worker had been repeatedly spiking her soda cans with urine. After he was caught, the co-worker was charged with a felony: placing bodily substance in food or drink with the intent to cause bodily harm.

As it turned out, though, the charges against him were dropped completely. The reason: the judge and the district attorney did not think the man's actions met the "intent to cause bodily harm" clause contained in the law. This person deliberately poured urine into a soda, which he knew Marilyn, would drink, but was entirely immune from the law. In effect, the law allows us to do disgusting things like this without legal recourse for the victim.

It didn't have to be urine. According to the law right now, one could place feces, mucus, blood, or saliva in food or drink and, unless the standard of intent to cause bodily harm can be met, that person would be immune from prosecution.

The bill I'm proposing would create a class A misdemeanor for placing bodily fluids in food or drink with the intent that another person eat or drink it without their knowledge. Current law would remain the same – if the intent to cause bodily harm standard can be proven, then the crime would still rise to a felony.

Statement of Marilyn Luebke
3643 Range Line Rd.
Manitowoc, WI 54220

Date: December 17, 2001

Over a period of several months in 1994, a coworker, without my knowledge, was tampering with my drinks on a daily basis. During these months I noticed an unusual taste and discoloration of my drinks and small amounts of unexplained liquid on my desk. As I approached my cubicle on December 23, 1994, I heard my soda can being set down and I found the perpetrator standing by my desk. It was at this time I began to make a connection between the perpetrator and the problems with my drinks. Not knowing what to do, I contacted the Sheriff of Manitowoc County and he suggested that he install a video camera in my cubicle in an attempt to catch the perpetrator in action. Unfortunately, the attempt to catch him was unsuccessful, so the Sheriff's Department called him in for questioning. He denied any wrongdoing, but yet refused to take a polygraph test.

On February 14, 1995, I confronted the perpetrator in his office at work. At that time he admitted to putting something in my drinks, but refused to tell my supervisor or me what it was. On March 20, I again confronted him in his office, stating that I had a right to know what he had been putting into my drinks. At that time he admitted that the substance was urine. That evening I contacted the Sheriff's Department advising them that I wanted to file charges. The following day, March 21, the perpetrator was again called in by the Sheriff's Department and admitted to tampering with my drinks.

The District Attorney's Office then charged him with Section 941.325 of the Wisconsin Statutes, placing foreign objects in edibles with intent to cause bodily harm. On May 10, 1995, a preliminary hearing was held in Manitowoc County Circuit Court. At that time Judge Allan J.

Deehr found that the circumstances did not fit into the second element of Section 941.325, intent to cause bodily harm.

According to E. James FitzGerald, Manitowoc County District Attorney, there is no law to cover this act which Judge Deehr described as "reprehensible" and "disgusting". District Attorney FitzGerald also said that this is not covered under a battery charge or disorderly conduct. Unfortunately current law dictates that this is an unpunishable act.

I am aware that this was not the first time or the last time that a similar situation has occurred. If action is not taken, the public could soon become aware that this type of behavior is acceptable in our society.

Charges against the defendant were dropped because the Court could not prove intent to cause bodily harm. Whether or not he intended to harm me is not the point. The result of these events have certainly caused emotional distress and anxiety, not only for me but also for my loved ones. While the addition of this section to the law will not ensure that this does not happen again, it will ensure that those who commit this sort of crime will be punished.

I ask that you please support this proposed legislation. Thank you.