

2003 DRAFTING REQUEST

Bill

Received: **01/16/2003**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **David Hansen (608) 266-5670**

By/Representing: **Lisa Ellinger**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - health and safety**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Hansen@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

One day of rest in seven for cheesemakers

Instructions:

See Attache--redraft 2001 SB 309.

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>
/?	gmalaise 01/16/2003	chanaman 01/20/2003		_____			State
/1			jfrantze 01/22/2003	_____	sbasford 01/22/2003	mbarman 02/03/2003	

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FE Sent For:							

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Malaise, Gordon

-154)

From: Ellinger, Lisa
Sent: Thursday, January 16, 2003 9:54 AM
To: Malaise, Gordon
Subject: bill drafts

Gordon:

Sen. Hansen would like 2001-02 ~~SB309~~ SB309 re-drafted for introduction this session.

Thank you.

Lisa Ellinger
Office of State Senator Dave Hansen
State Capitol - Room 319 South
PO Box 7882
Madison WI 53707
608-266-5670
608-267-6791 FAX

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2001 SENATE BILL 309

~~November 6, 2001~~ Introduced by Senators HANSEN, BAUMCART, BURKE, DECKER, PLACHE, RISSER and WIRCH, cosponsored by Representatives GUNDERSON, BALOW, LASSA, J. LEHMAN and MEYERHOFFER. Referred to Committee on Labor and Agriculture.

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1 AN ACT to amend 103.85 (2) (c); and to create 103.85 (2) (cm) and 103.85 (2m)

2 of the statutes; relating to: one day of rest in ~~7~~ for a person who is employed

3 exclusively in the production of pasteurized cheese products that have

4 expiration dates that are not less than 60 days after the date on which the

5 products were packaged.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, every employer who owns or operates a factory or mercantile establishment must allow every person employed in the factory or mercantile establishment to have at least 24 consecutive hours of rest in every period of seven consecutive days (one day of rest in seven). Currently, an employer of a person employed in the manufacture of butter, cheese, or other dairy products, in the distribution of milk or cream, or in a cannery or freezer is not required to allow the person to have one day of rest in seven. This bill requires a person who is employed exclusively in the production of pasteurized processed cheese products that have expiration dates that are not less than 60 days after the date on which the products were packaged to be given one day of rest in seven, unless the person voluntarily agrees to work without one day of rest in seven.

FE-5

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

Barman, Mike

From: Wadd, Jay
Sent: Sunday, February 02, 2003 12:07 PM
To: LRB.Legal
Subject: Draft review: LRB-1541/1 Topic: One day of rest in seven for cheesemakers

It has been requested by <Wadd, Jay> that the following draft be jacketed for the SENATE:

Draft review: LRB-1541/1 Topic: One day of rest in seven for cheesemakers

LRB



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 266-5648

STEPHEN R. MILLER
CHIEF

April 7, 2003

MEMORANDUM

To: Senator Hansen

From: Gordon M. Malaise, Sr. Legislative Attorney, (608) 266-9738

Subject: Technical Memorandum to **2003 SB 94** (LRB-1541/1)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file. If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

LRB

InterOffice Memo

Department of Workforce Development

Date: April 7, 2003

File Ref: \\dwdufs2\anderrro\$lsb-94 technical memo.doc

To: Mike Diaz- Martinez

From: Bob Anderson

Subject: **SB-94**

For the past 6-8 years there has been a controversy at one of Schreiber Foods plants concerning the scheduling of union employees to work seven days a week for extended periods of time. I believe this bill is another effort by the union to address this matter. If that is the case the intention of this legislation is to include manufacturers of dairy products made with dairy products that don't require immediate processing within the coverage of §103.85, Wisconsin Stats. (One Day of Rest in Seven Law). The union, while wishing to be covered by the law also wants its members to be able to voluntarily work seven days a week.

The current proposed legislation attempts to accomplish this task by creating §103.85(2m) which states "persons engaged exclusively in the production of pasteurized processed cheese products that have expiration dates that are not less than 60 days after the date on which the products were packaged" will be covered by the requirement of receiving one day of rest each calendar week.

My concerns with this approach are:

1. We are taking a poorly worded statute and making it still more complex and confusing. The current statute lists those employees covered in paragraph one. The statute lists employees excluded from coverage in paragraph two. The proposed legislation would now list some covered employees in paragraph two. It would work better to incorporate the language in 103.85(2m) into paragraph one to list all covered employees in one paragraph.
2. I believe we should find a more appropriate way of identifying the employees intended to be covered under paragraph 2m. The current coverage exception contained in §103.85(2), Wisconsin Stats. was created to ensure that employers who used ingredients time sensitive to perishing prior to being processed, during processing or after processing would be able to process the ingredients and dispose of the end products in a timely manner. The proposed language doesn't address the need of employers to process raw dairy products to the point where the product is sufficiently processed to be storable without immediate threat of perishing. For example, a cheese maker may be manufacturing pasteurized processed cheese products but starting out with raw milk. Up until that raw milk is processed to the point of being storable it represents a highly perishable commodity.

Assuming we address the aforementioned problems it appears to me that §103.85(2)(cm) and section four of this bill are unnecessary. Employers with employees covered by §103.85 of Wisconsin Stats. have the ability to apply for a waiver or modification of the statutory requirements through the department. In the case of a unionized employer the department requires the employer to submit a joint request from the union and management. Typically an employer would meet with the union and negotiate the terms of the waiver and then submit the written request for a waiver to the department which would then act on the request. The waiver may be granted for a specific period of need or for the length of the union contract. I would think it would be easier for all concerned to work within the framework of the current law and limit this bill to simply modifying which employees are covered by it. Waivers requested by unionized employers may either request the waiver for employees to be permitted to work seven days a week on a voluntary or mandatory basis. That decision would be up to the union and employer to determine how they wish to request the waiver.