

**2003 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB94)**

Received: **04/16/2003**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

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

By/Representing: **John Wagnitz**

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

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**Topic:**

One day of rest in seven for cheesemakers

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**Instructions:**

See Attached--makes changes recommended in DWD technical amendment

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**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 04/16/2003	kgilfoy 04/16/2003		_____			
/1			jfrantze 04/17/2003	_____	amentkow 04/17/2003	amentkow 04/17/2003	

FE Sent For:

**<END>**

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1?	gmalaise	1-4/16 kmj	8/4/17	J.Pg 4/17			

FE Sent For:

<END>

## Malaise, Gordon

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**From:** Malaise, Gordon  
**Sent:** Wednesday, April 16, 2003 2:38 PM  
**To:** Wagnitz, John  
**Subject:** RE: Cross-burning and SB 94 changes

OK.

-----Original Message-----

**From:** Wagnitz, John  
**Sent:** Wednesday, April 16, 2003 2:18 PM  
**To:** Malaise, Gordon  
**Subject:** RE: Cross-burning and SB 94 changes

Thanks Gordon,  
a sub. amendment sounds good.  
jw

-----Original Message-----

**From:** Malaise, Gordon  
**Sent:** Wednesday, April 16, 2003 2:15 PM  
**To:** Wagnitz, John  
**Subject:** RE: Cross-burning and SB 94 changes

John:

I also reviewed Bob Anderson's memo, and his comments make sense to me as well. Because Bob's changes basically involve rewriting the entire bill, I would recommend that a substitute amendment, rather than a simple amendment, be drafted to incorporate those changes.

Gordon

-----Original Message-----

**From:** Wagnitz, John  
**Sent:** Wednesday, April 16, 2003 1:09 PM  
**To:** Malaise, Gordon  
**Subject:** RE: Cross-burning and SB 94 changes

Thanks Gordon. Also, we received the memo from Bob Anderson regarding SB 94 (one day of rest in 7 for cheesemakers).....his suggestions seem good and we wouldn't have a problem with changing the bill language to accomodate those suggestions. Let me know if there's a problem with that.

jw

# InterOffice Memo

Department of Workforce Development

Date: April 7, 2003

File Ref: \\dwd\dfs2\anderro\$lsb-94 technical memo.doc

To: Mike Diaz- Martinez

From: Bob Anderson

Subject: **SB-94** (1541A)

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.

2003

Date (time) needed

500N

LRBs 0058 / 1

**SUBSTITUTE AMENDMENT  
[TO A BILL]**

\_\_\_\_\_  
: King :  
\_\_\_\_\_

Use the appropriate components and routines developed for substitute amendments.

**(S) A (SUBSTITUTE AMENDMENT)**

TO 2003 **(SB)** ~~AB~~ 94 (LRB- / )

AN ACT ... [generate catalog] *to repeal ... ; to renumber ... ; to consolidate and renumber ... ; to renumber and amend ... ; to consolidate, renumber and amend ... ; to amend ... ; to repeal and recreate ... ; and to create ...* of the statutes; relating to:

.....  
.....  
.....  
.....  
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

SECTION #.

5 00 58/1

# 2003 SENATE BILL 94

In the processing <sup>of</sup> ~~the~~ raw dairy products after the point at which those products are sufficiently processed so <sup>as</sup> to be <sup>or a</sup> storable without immediate threat ~~of~~ perishing

April 2, 2003 - Introduced by Senators HANSEN and RISSER, cosponsored by Representatives BOYLE, BEREAU and J. LEHMAN. Referred to Committee on Labor, Small Business Development and Consumer Affairs.

Regenera

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.

are sufficiently processed so as to be storable without immediate threat of perishing

## 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.

substitute amendment narrows the exception to the one day of rest in seven requirement for persons employed in the manufacture of butter, cheese, or other dairy products to persons employed in the processing of raw dairy products to the point at which those products



**SENATE BILL 94**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 103.85 (2) (c) of the statutes is amended to read:

103.85 (2) (c) Persons employed ~~in the manufacture of butter, cheese, or other dairy products or, in the distribution of milk or cream, or in canneries and freezers,~~ <sup>or</sup> ~~except as provided in sub. (2m).~~

SECTION 2. 103.85 (2) (cm) of the statutes is created to read:

103.85 (2) (cm) Persons ~~described in sub. (2m) who voluntarily agree to work for 7 or more consecutive days without 24 consecutive hours of rest in those 7 or more~~

~~SECTION 3. 103.85 (2m) of the statutes is created to read:~~

~~103.85 (2m) Notwithstanding sub. (2) (c) and except as provided in sub. (2) (cm), this section applies to 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.~~

SECTION 4. Initial applicability.

*Subject to section 103.85 (4) of the statutes, this*

(1) ~~This~~ act first applies to persons who are affected by a collective bargaining agreement that contains provisions inconsistent with ~~section 103.85 (2) (cm) and (2m) of the statutes, as created by~~ this act, on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(END)

*employed in the processing of raw dairy products to the point at which those products are sufficiently processed so as to be storable without immediate threat of perishing*