

2003 DRAFTING REQUEST

Bill

Received: 12/04/2003

Received By: gmalaise

Wanted: As time permits

Identical to LRB:

For: Tim Carpenter (608) 266-8535

By/Representing: Stewart Ewy

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: Employ Priv - miscellaneous

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Temporary help agency transportation fees

Instructions:

Redraft 01-5133/1.

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 12/04/2003 | kfollett 12/05/2003 kfollett 12/05/2003 | | _____ | | | State |
| /1 | | | jfrantze 12/08/2003 | _____ | sbasford 12/08/2003 | Inorthro 12/10/2003 | |

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 1/? | gmalaise | 11/18 12/5 | 7/12/8 | Sell 12/8 | | | |

FE Sent For:

<END>

GMM

TO: LRB Drafting
FROM: Rex Loehe, Office of Rep. Tim Carpenter 6-1707
RE: Three Bill Draft Requests
DATE: June 25, 2002

Representative Tim Carpenter would like three bills drafted:

1. A Joint Resolution to be taken up during the special session welcoming Auxiliary Bishop Timothy M. Dolan as Milwaukee's new Archbishop (see enclosed articles)
2. Please see Commonwealth of Massachusetts bill relating to limiting the amount of fees that staffing may charge employees for Transportation.
3. AMBER System for use in child abduction cases. Used in Minnesota and 26 other states and credited with the recovery of 17 children. When a child is abducted, broadcasters immediately broadcast details of the abduction on television.

EX-101
MR
GP
AL

Thanks for your time and attention to this matter. If you have any questions or need additional information, please do not hesitate to give me a call.

*Bell
draft
next
session*

THE COMMONWEALTH OF MASSACHUSETTS

In the Year two Thousand and Two

AN ACT LIMITING THE AMOUNT OF FEES THAT STAFFING AGENCIES MAY
CHARGE EMPLOYEES FOR TRANSPORTATION.

Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 27C of chapter 149 of the General Laws, as
appearing in the 2000 Official Edition, is hereby amended by inserting after the
word "thereof", in lines 2 and 11, the following words:- , of staffing agency or
work site employer.

*penalties
15.75*

SECTION 2. Said section 27C of said chapter 149, as so appearing, is
hereby further amended by striking out, in lines 4 and 13, the words "or 148B"
and inserting in place thereof, in each instance, the following words :- , 148B or
159C.

SECTION 3. Section 150 of said chapter 149, as so appearing, is hereby
amended by striking out, in line 22, the words "or 152A" and inserting in place
thereof the following words: - , 152A or 159C.

complaint

SECTION 4. Said chapter 149 is hereby further amended by inserting after section 159B the following section: -

Section 159C. (a) For purposes of this section, the following words shall have the following meanings:-

"Employee", a person employed directly by a staffing agency to provide temporary or part-time employment services to a work site employer or a person for whom a staffing agency procures or arranges temporary or part-time employment with a work site employer. "Employee" includes persons under 18 years of age engaged in domestic service in the home of the employer or persons engaged in agricultural services.

"Employer", an individual, company, corporation or partnership acting in the interest of an employer directly or indirectly.

"Employment", a trade, occupation or branch of industry, any particular method or process used therein, and the services of any particular employer by an employee as defined in this section, which shall include, but not be limited to, private domestic services by persons under 18 years of age or service as a farm laborer, including all practices connected with agriculture, the tillage of the soil, preparation and marketing of crops and equipment, customarily performed by a farmer on a farm.

"Staffing agency", an individual, company, corporation or partnership that procures or provides temporary or part-time employment to a person who then works under the supervision or direction of a work site employer.

"Work site employer", an individual, company, corporation or partnership with which a staffing agency contracts or otherwise agrees to furnish persons for temporary or part-time employment.

(b) If a staffing agency or work site employer or a person acting directly or indirectly in either's interest offers transportation services to an employee and charges a fee for such services, the staffing agency or work site employer shall charge such employee no more than the actual cost to transport such employee to or from the designated work site. The fee, if any, to cover the transportation service costs for each such employee shall not exceed 3 percent of such employee's total daily wages, and shall not reduce the employee's total daily wages below the minimum wage earned for the day. If a staffing agency or work site employer or a person acting directly or indirectly in either's interest requires the use of such transportation services, no fee may be charged.

(c) No staffing agency or work site employer or a person acting directly or indirectly in either's interest may deduct the costs for transportation services from the wages of an employee without the express written authorization of the employee. A staffing agency or work site employer shall furnish to the employee a copy of the signed authorization in a language that the employee can understand.

(d) Whoever violates this section shall be punished or shall be subject to a civil citation or order as provided in section 27C.

-3826/1

500

2001 BILL

LPS:
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Regen

1 AN ACT *to renumber* 105.01 (1) (a), 105.01 (1) (c), 105.01 (1) (d) and 105.01 (1)
 2 (e); *to renumber and amend* 105.01 (1) (intro.), 105.01 (1) (b) (intro.), 105.01
 3 (1) (b) 1., 105.01 (1) (b) 2. and 105.01 (1) (f); *to amend* 105.05 (1), 105.06 (2) and
 4 105.15; and *to create* 105.01 (1r) (f), 105.01 (3) (intro.) and 105.115 of the
 5 statutes; **relating to:** limiting the amount that a temporary help service,
 6 employment agent, employer-paid employment agent, or employer may charge
 7 an employee for transportation and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, an employment agent may not charge an applicant for employment any fee for services rendered that is greater than the maximum fee for the applicable classification of employment fixed by the Department of Workforce Development (DWD) by rule. Currently, DWD rules require an employment agent to clearly advise an applicant for employment as to who is liable for transportation expenses when the applicant is referred to a position outside the city where the employment agent is located. These requirements, however, do not apply to a person whose fees are paid entirely by an employer (employer-paid employment agent) or to a temporary help service, which is a service that employs individuals to render temporary or part-time services to third persons.

This bill provides that if a temporary help service, employment agent, employer-paid employment agent (collectively, "staffing agency"), or employer that

BILL

has procured the services of an employee from a staffing agency (third-party employer) offers the employee transportation to and from the third-party employer's workplace, the staffing agency or third-party employer may not charge the employee more than the actual cost of the transportation or ^{Percent} 3% of the employee's total daily earnings, whichever is less, except that the transportation fee may not reduce the employee's total daily earnings to below the minimum wage. The bill also prohibits a staffing agency or third-party employer that requires an employee to use transportation provided by the staffing agency or third-party employer from charging the employee for the transportation. Finally, the bill prohibits a staffing agency or third-party employer from deducting the cost of transportation provided by the staffing agency or third-party employer from the employee's pay without the express written authorization of the employee and requires the staffing agency or third-party employer to furnish a signed copy of the authorization to the employee.

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:

1 SECTION 1. 105.01 (1) (intro.) of the statutes is renumbered 105.01 (1r) (intro.)

2 and amended to read:

3 105.01 (1r) (intro.) "Employment agent" means ~~all persons who furnish a~~
4 person that furnishes to persons seeking employment, information enabling or
5 tending to enable ~~such those~~ persons to secure ~~the same, or who furnish employment~~
6 that furnishes employers seeking laborers or other help of any kind, information
7 enabling or tending to enable ~~such those~~ employers to secure ~~such that~~ help, or who
8 keep that keeps a register of persons seeking employment or help as aforesaid,
9 whether ~~such agents conduct their~~ the person conducts its operations at a fixed place
10 of business, on the streets, or as ~~transients~~ a transient, and also whether ~~such those~~
11 operations constitute the principal business of ~~such agents~~ the person or only a
12 sideline or an incident to another business. "Employment agent" does not include
13 any of the following:

14 SECTION 2. 105.01 (1) (a) of the statutes is renumbered 105.01 (1r) (a).

BILL

1 SECTION 3. 105.01 (1) (b) (intro.) of the statutes is renumbered 105.01 (1r) (b)
2 and amended to read:

3 105.01 (1r) (b) Any temporary help service ~~defined as any person employing~~
4 ~~individuals to render part-time or temporary services to, for or under the direction~~
5 ~~of a 3rd person, if:~~

6 SECTION 4. 105.01 (1) (b) 1. of the statutes is renumbered 105.01 (3) (a) and
7 amended to read:

8 105.01 (3) (a) The person ~~employing the individuals in addition to~~ pays the
9 wages or salaries ~~pays~~, federal social security taxes, and state and federal
10 unemployment contributions or taxes of those individuals, carries worker's
11 compensation insurance covering those individuals as required by state law, and
12 maintains liability insurance covering the acts of ~~its employees~~ those individuals
13 while rendering services to, for, or under the direction of, a 3rd person; ~~and~~.

14 SECTION 5. 105.01 (1) (b) 2. of the statutes is renumbered 105.01 (3) (b) and
15 amended to read:

16 105.01 (3) (b) The ~~employer's person's~~ contracts with its employees those
17 individuals do not contain any provision requiring the forfeiture or payment of any
18 amount by the ~~employee~~ individual as liquidated damages upon the acceptance of
19 permanent employment by ~~an employee~~ the individual with a 3rd person who has
20 received the ~~employee's~~ individual's part-time or temporary services.

21 SECTION 6. 105.01 (1) (c) of the statutes is renumbered 105.01 (1r) (c).

22 SECTION 7. 105.01 (1) (d) of the statutes is renumbered 105.01 (1r) (d).

23 SECTION 8. 105.01 (1) (e) of the statutes is renumbered 105.01 (1r) (e).

24 SECTION 9. 105.01 (1) (f) of the statutes is renumbered 105.01 (1g) and amended
25 to read:

BILL

1 105.01 (1g) ~~A person~~ "Employer-paid employment agent" means an
2 employment agent whose fees or charges are paid entirely by an employer.

3 SECTION 10. 105.01 (1r) (f) of the statutes is created to read:

4 105.01 (1r) (f) An employer-paid employment agent.

5 SECTION 11. 105.01 (3) (intro.) of the statutes is created to read:

6 105.01 (3) (intro.) "Temporary help service" means a person employing
7 individuals to render part-time or temporary services to, for, or under the direction
8 of, a 3rd person if all of the following apply:

9 SECTION 12. 105.05 (1) of the statutes is amended to read:

10 105.05 (1) No person, including a modeling agency that secures work for
11 persons to act as live models or to model for photography, may engage in the business
12 of an employment agent for profit, or receive any fee, charge, commission, or other
13 compensation, directly or indirectly, for services as an employment agent, ~~including~~
14 ~~modeling agencies which secure work for persons to act as live models or to model for~~
15 ~~photography~~, without first having obtained a license from the department and
16 executing a bond under s. 105.06 (1). No ~~person whose fees or charges are paid~~
17 ~~directly by employers~~ employer-paid employment agent may engage in the business
18 specified in s. 105.01 (1) (1r) (intro.) without first registering under s. 105.06 (2). The
19 license constitutes permission from this state to operate as an employment agent for
20 compensation. ~~It~~ The license is not transferable to or for the benefit of any person
21 other than the licensee. A person licensed under this ~~section shall~~ subsection may
22 not transact business as an employment agent at more than one office location or
23 place of business without having first obtained from the department a separate
24 license for each additional office ~~in accordance with~~ as provided in this chapter.

25 SECTION 13. 105.06 (2) of the statutes is amended to read:

BILL

1 105.06 (2) ~~Persons whose fees or charges are paid directly by employers~~ An
2 employer-paid employment agent shall register annually with the department to
3 engage in the business specified in s. 105.01 (1) [✓](1r) (intro.). The fee to register under
4 this subsection is \$5.

5 **SECTION 14.** 105.115[✓] of the statutes is created to read:

6 **105.115 Transportation fees.** (1) If an employer procures the services of an
7 employee from a temporary help service, employment agent, or employer-paid
8 employment agent and the employer, temporary help service, employment agent, or
9 employer-paid employment agent offers to the employee transportation to and from
10 the employer's workplace, the employer, temporary help service, employment agent,
11 or employer-paid employment agent may charge the employee no more than the
12 actual cost of that transportation or ^{percent}3% of the employee's total daily earnings,
13 whichever is less, except that the transportation fee, when subtracted from the
14 employee's total daily earnings, may not reduce those daily earnings to below the
15 minimum amount that the employee is required to be paid for the day under ch. 104[✓]
16 or 29 USC 210 to 219, whichever is applicable.

17 (2) If an employer procures the services of an employee from a temporary help
18 service, employment agent, or employer-paid employment agent and the employer,
19 temporary help service, employment agent, or employer-paid employment agent
20 requires the employee to use transportation to and from the employer's workplace
21 provided by the employer, temporary help service, employment agent, or
22 employer-paid employment agent, the employer, temporary help service,
23 employment agent, or employer-paid employment agent may not charge the
24 employee for that transportation.

BILL

1 (3) If an employer procures the services of an employee from a temporary help
2 service, employment agent, or employer-paid employment agent and the employer,
3 temporary help service, employment agent, or employer-paid employment agent
4 provides to the employee transportation to and from the employer's workplace, the
5 employer, temporary help service, employment agent, or employer-paid
6 employment agent may not deduct the cost of the transportation from the pay of the
7 employee without the express written authorization of the employee. The employer,
8 temporary help service, employment agent, or employer-paid employment agent
9 shall furnish to the employee a signed copy of the authorization in English or, if the
10 employee has difficulty understanding English, in the customary language of the
11 employee.

12 (4) If the department receives a complaint and determines that there is
13 probable cause to believe that an employer, temporary help service, employment
14 agent, or employer-paid employment agent has charged an employee more than the
15 amount permitted under sub. (1) for transportation to and from the employer's
16 workplace, has charged an employee for transportation to and from the employer's
17 workplace in violation of sub. (2), or has deducted the cost of transportation to and
18 from the employer's workplace without authorization or without furnishing a copy
19 of the authorization to the employee in violation of sub. (3), the department shall
20 have the right of entry and audit under ss. 105.08 and 105.09 as to the employer,
21 temporary help service, employment agent, or employer-paid employment agent
22 with respect to the complaint and may, under s. 109.09 (1), recover the amount of the
23 overcharge, charge, or deduction, plus a penalty equal to the overcharge, charge, or
24 deduction.

25 SECTION 15. 105.15 of the statutes is amended to read:

BILL

1 **105.15 General powers of department applicable; penalties.** Such
2 investigations, classifications, and orders shall be made as provided in s. 103.005 and
3 the penalties specified in s. 103.005 (12) shall apply to and be imposed for any
4 violation of ss. 105.01 to ~~105.11~~ 105.115 or 105.13 to 105.15. The department may
5 also order a person who operates an employment agency in violation of s. 105.05 (1)
6 to make refunds as provided under s. 105.16 (2). Orders issued under this section
7 are subject to review in the manner provided in ch. 227.

8 **SECTION 16. Initial applicability.**

9 (1) TRANSPORTATION CONTRACTS. This act first applies to a contract for the
10 transportation of an employee to and from the employer's workplace that is entered
11 into, or extended, modified, or renewed, on the effective date of this subsection.

12

(END)

Northrop, Lori

From: Ewy, Stuart
Sent: Wednesday, December 10, 2003 11:37 AM
To: LRB.Legal
Subject: Draft review: LRB 03-3826/1 Topic: Temporary help agency transportation fees

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

Draft review: LRB 03-3826/1 Topic: Temporary help agency transportation fees