

2003 DRAFTING REQUEST

Bill

Received: **05/28/2003**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Jon Erpenbach (608) 266-6670**

By/Representing: **Carrie Templeton**

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.Erpenbach@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Regulation of travelling sales crews

Instructions:

See Attached

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 08/02/2003	wjackson 08/07/2003					State Crime
/1			jfrantze 08/07/2003		sbasford 08/07/2003		State Crime
/2	gmalaise	wjackson	rschluet		lemery	mbarman	

Switched to Senate

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/12/2004	02/13/2004	02/13/2004	_____	02/13/2004	02/18/2004	
				_____		lemery	
				_____		02/18/2004	

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At
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Handwritten signatures and numbers 2, 3, 4 are present below the drafting history table.

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1?	gmalaise	11 Wlj 8/7	J 8/7	J 8/7			

FE Sent For:

<END>

Malaise, Gordon

From: Templeton, Carrie
Sent: Wednesday, May 28, 2003 10:50 AM
To: Malaise, Gordon
Subject: Drafting request

Hi Gordon-

Senator Erpenbach would like to request a bill draft that creates several regulations on the traveling sales crew (door-to-door sales) industry. We have worked with several state agencies in formulating the key components of the bill draft, but we expect the draft to go through several changes prior to introduction.

We would like the bill draft to do the following:

1. Require traveling sales crews to register with the state. They will then receive a permit, if all registration conditions are met:

- a. Registration fee required. Fee will be based on Consumer Protection's costs in implementing the registration/permit system.
- b. When traveling sales crews register with the state, the name of crew manager and car handler must be listed with their drivers license numbers
- c. Evidence that a disclosure statement has been given to and signed by all employees. Contents of disclosure statement have not been determined yet...
- d. Companies must register with state prior to recruiting employees or any door-to-door sales in state

2. Cleaning Product Sales. If traveling with an item listed as a hazardous substance under state or federal law (some cleaning items are haz substances), all members of crew must have training on how to handle and transport hazardous materials. (OSHA standards) Products must be transported in a "safe" manner-federal OSHA/haz mat standards.

3. Door-to-door sales can only occur between the hours of 9:00 AM and 9:00 PM.

4. Cannot employ anyone under 18 years of age

5. Permit can be revoked if crew/company fail to comply with:

- a. registration requirements,
- b. vehicle safety laws,
- c. child labor laws,
- d. safety standards for employees,
- e. haz materials provision mentioned above
- f. hours of door-to-door sale requirements

but cannot employ minors(?) - employ person under 18

6. If permit revoked, company can only reapply only with permission of Consumer Protection. Consumer Protection can place conditions on subsequent permits for a company (or its subsidiaries.)

7. Vehicle must be appropriate for the number of people transported (based on federal vehicle standards.)

8. Crew members must be considered by company as "employees" while in Wisconsin, not as "independent contractors"

9. Allow local municipalities to ban or restrict door-to-door sales beyond state requirements.

This is what we have so far. Please call (6-6670) or email me with any questions regarding the draft. As I've indicated, we expect it to be a preliminary draft and plan on making changes.

Thank you.
Carrie

Carrie Templeton
Office of Senator Jon Erpenbach
27th District

S 96 IS

107th CONGRESS

1st Session

S. 96

To ensure that employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938 and under other provisions of law.

IN THE SENATE OF THE UNITED STATES

January 22, 2001

Mr. KOHL introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To ensure that employees of traveling sales crews are protected under the Fair Labor Standards Act of 1938 and under other provisions of law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Traveling Sales Crew Protection Act'.

TITLE I--FAIR LABOR STANDARDS ACT OF 1938

SEC. 101. APPLICATION OF PROVISIONS TO CERTAIN OUTSIDE SALESMAN.

(a) IN GENERAL- Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

`(k) For purposes of subsection (a)(1), and notwithstanding any other provision of law, the term 'outside salesman' shall not include any individual employed in the position of a salesman where the individual travels with a group of salespeople, including a supervisor, team leader or crew leader, and the employees in the group do not return to their permanent residences at the end of the work day.'

(b) LIMITATION ON CHILD LABOR- Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following:

`(e) No individual under 18 years of age may be employed in a position requiring the individual to

engage in door to door sales or in related support work in a manner that requires the individual to remain away from his or her permanent residence for more than 24 hours.'

(c) RULES AND REGULATIONS- The Secretary of Labor may issue such rules and regulations as are necessary to carry out the amendments made by this section, consistent with the requirements of chapter 5 of title 5, United States Code.

TITLE II--PROTECTION OF TRAVELING SALES CREWS

SEC. 201. PURPOSE.

It is the purpose of this title--

- (1) to remove the restraints on interstate commerce caused by activities detrimental to traveling sales crew workers;
- (2) to require the employers of such workers to register under this Act; and
- (3) to assure necessary protections for such employees.

SEC. 202. DEFINITIONS.

In this title:

- (1) CERTIFICATE OF REGISTRATION- The term `Certificate of Registration' means a Certificate issued by the Secretary under section 203(c)(1).
- (2) EMPLOY- The term `employ' has the meaning given such term by section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 201(g)).
- (3) GOODS- The term `goods' means wares, products, commodities, merchandise, or articles or subjects of interstate commerce of any character, or any part or ingredient thereof.
- (4) PERSON- The term `person' means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.
- (5) SALE, SELL- The terms `sale' or `sell' include any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition of goods.
- (6) SECRETARY- The term `Secretary' means the Secretary of Labor.
- (7) TRAVELING SALES CREW WORKER-
 - (A) IN GENERAL- Except as provided in subparagraph (B), the term `traveling sales crew worker' means an individual who--
 - (i) is employed as a salesperson or in related support work;

- (ii) travels with a group of salespersons, including a supervisor; and
- (iii) is required to be absent overnight from his or her permanent place of residence.

(B) LIMITATION- The term 'traveling sales crew worker' does not include--

- (i) any individual who meets the requirements of subparagraph (A) if such individual is traveling to a trade show or convention; or
- (ii) any immediate family member of a traveling sales crew employer.

SEC. 203. REGISTRATION OF EMPLOYERS AND SUPERVISORS OF TRAVELING SALES CREW WORKERS.

(a) REGISTRATION REQUIREMENT-

~~(1)~~ IN GENERAL- No person shall engage in any form of employment of traveling sales crew workers, unless such person has a Certificate of Registration from the Secretary.

(2) SUPERVISORS- A traveling sales crew employer shall not hire, employ, or use any individual as a supervisor of a traveling sales crew, unless such individual has a Certificate of Registration from the Secretary.

(3) DISPLAY OF CERTIFICATE OF REGISTRATION- Each registered traveling sales crew employer and each registered traveling sales crew supervisor shall carry at all times while engaging in traveling sales crew activities a Certificate of Registration from the Secretary and, upon request, shall

exhibit that certificate to all persons with whom they intend to deal.

(b) APPLICATION FOR REGISTRATION- Any person desiring to be issued a Certificate of Registration from the Secretary, as either a traveling sales crew employer or traveling sales crew supervisor, shall file with the Secretary a written application that contains the following:

~~(1)~~ A declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the type or types of sales activities to be performed, and such other relevant information as the Secretary may require.

Vehicle ~~(2)~~ A statement identifying each vehicle to be used to transport any member of any traveling sales crew and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 204(d) with respect to each such vehicle.

Housing
Comments (3) A statement identifying, with as much specificity as the Secretary may require, each facility or real property to be used to house any member of any traveling sales crew and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 204(e) with respect to each such facility or real property.

registered agent

- (4) A set of fingerprints of the applicant.
- (5) A declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(c) ISSUANCE OF CERTIFICATE OF REGISTRATION-

~~(1)~~ IN GENERAL- In accordance with regulations, and after any investigation which the Secretary may deem appropriate, the Secretary shall issue a Certificate of Registration, as either a traveling sales crew employer or traveling sales crew supervisor, to any person who meets the standards for such registration.

~~(2)~~ REFUSAL TO ISSUE OR RENEW, SUSPENSION AND REVOCATION- The Secretary may refuse to issue or renew, or may suspend or revoke, a Certificate of Registration if the applicant for or holder of the Certificate--

~~(1)~~ has knowingly made any misrepresentation in the application for such Certificate of Registration;

~~(2)~~ is not the real party in interest with respect to the application or Certificate of Registration and the real party in interest is a person who--

~~(A)~~ has been refused issuance or renewal of a Certificate;

~~(B)~~ has had a Certificate suspended or revoked; or

~~(C)~~ does not qualify for a Certificate under this section;

~~(3)~~ has failed to comply with this title or any regulation promulgated under this title;

~~(4)~~ has failed--

~~(A)~~ to pay any court judgment obtained by the Secretary or any other person under this title or any regulation promulgated under this title; or

~~(B)~~ to comply with any final order issued by the Secretary as a result of a violation of this title or any regulation promulgated under this title;

~~(5)~~ has been convicted within the 5 years preceding the date on which the application was filed or the Certificate was issued--

~~(A)~~ of any crime under Federal or State law relating to the sale, distribution or possession of alcoholic beverages or narcotics, in connection with or incident to any traveling sales crew activities;

~~(B)~~ of any crime under Federal or State law relating to child abuse, neglect, or endangerment; or

~~(C)~~ of any felony under Federal or State law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally;

(6) has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1) or (2));

~~(7)~~ has failed to comply with any bonding or security requirements as the Secretary may establish; or

~~(8)~~ has failed to satisfy any other requirement which the Secretary may by regulation establish.

(d) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW-

(1) IN GENERAL- A person who is refused the issuance or renewal of a Certificate or Registration, or whose Certificate of Registration is suspended or revoked, shall be afforded an opportunity for an agency hearing, upon a request made within 30 days after the date of issuance of the notice of refusal, suspension, or revocation. If no hearing is requested as provided for in this subsection, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) HEARING- If a hearing is requested under paragraph (1), the initial agency decision shall be made by an administrative law judge, with all issues to be determined on the record pursuant to section 554 of title 5, United States Code, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final order which takes effect under this

paragraph shall be subject to review only as provided under paragraph (3).

(3) REVIEW BY COURT- Any person against whom an order has been entered after an agency hearing under this subsection may obtain review by the United States district court for any district in which the person is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such agency order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the agency order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided for in chapter 83 of title 28, United States Code.

(e) TRANSFER OR ASSIGNMENT OF CERTIFICATE; EXPIRATION; RENEWAL-

~~(1)~~ LIMITATION- A Certificate of Registration may not be transferred or assigned.

(2) EXPIRATION AND EXTENSION-

~~(A)~~ EXPIRATION- Unless earlier suspended or revoked, a Certificate of Registration shall expire 12 months from the date of issuance.

(B) EXTENSION- A Certificate of Registration may be temporarily extended, at the Secretary's discretion, by the filing of an application with the Secretary at least 30 days prior to the Certificate's expiration date.

~~(3)~~ RENEWAL- A Certificate of Registration may be renewed through the application process provided for in subsections (b) and (c).

(f) NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION- During the period for which a Certificate of Registration is in effect, the traveling sales crew employer or supervisor named on the Certificate shall--

(1) provide to the Secretary within 30 days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the Certificate of Registration whenever the person intends to--

(A) engage in any form of traveling sales crew activity not identified on the Certificate;

(B) use or cause to be used any vehicle not covered by the Certificate to transport any traveling sales crew worker; or

(C) use or cause to be used any facility or real property not covered by the Certificate to house any traveling sales crew worker.

(g) FILING FEE- The Secretary shall require the payment of a fee by an employer filing an application for the issuance or renewal of a Certificate of Registration. The amount of the fee shall be \$500 for a Certificate for an employer and \$50 for a Certificate for a supervisor. Sums collected pursuant to this section shall be applied by the Secretary toward reimbursement of the costs of administering this title.

SEC. 204. OBLIGATIONS OF EMPLOYERS OF TRAVELING SALES CREW WORKERS.

(a) DISCLOSURE OF TERMS AND CONDITIONS OF EMPLOYMENT-

~~(1)~~ WRITTEN DISCLOSURE- At the time of recruitment, each traveling sales crew worker shall be provided with a written disclosure of the following information, which shall be accurate and complete to the best of the employer's knowledge:

~~(A)~~ The place or places of employment, stated with as much specificity as possible.

~~(B)~~ The wage rate or rates to be paid.

~~(C)~~ The type or types of work on which the worker may be employed.

- ~~(D)~~ The period of employment.
- ~~(E)~~ The transportation, housing, and any other employee benefit to be provided, and any costs to be charged to the worker for each such benefit.
- (F) The existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment.
- ~~(G)~~ Whether State workers' compensation insurance is provided and, if so, the name of the State workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

~~(2)~~ RECORDS AND STATEMENTS- Each employer of traveling sales crew workers shall--

(A) with respect to each such worker, make, keep, and preserve records for 3 years of the--

~~(i)~~ basis on which wages are paid;

~~(ii)~~ number of piecework units earned, if paid on a piecework basis;

~~(iii)~~ number of hours worked;

(iv) total pay period earnings;

(v) specific sums withheld and the purpose of each sum withheld; and

(vi) net pay; and

gross
deductions
net

~~(B)~~ provide to each worker for each pay period, an itemized written statement of the information required under subparagraph (A).

~~(b)~~ PAYMENT OF WAGES WHEN DUE- Each traveling sales crew worker shall be paid the wages owed that worker when due. The payment of wages shall be in United States currency or in a negotiable instrument such as a bank check. The payment of wages shall be accompanied by the written disclosure required by subsection (a)(2)(B).

~~(c)~~ COSTS OF GOODS, SERVICES, AND BUSINESS EXPENSES-

~~(1)~~ PROHIBITION- No employer of traveling sales crew workers shall--

~~(A)~~ require any worker to purchase any goods or services solely from such employer;
or

~~(B)~~ impose on any worker any of the employer's business expenses, such as the cost of maintaining and operating a vehicle used to transport the traveling sales crew.

~~(2) INCLUSION AS PART OF WAGES-~~ An employer may include as part of the wages paid to a traveling sales crew worker the reasonable cost to the employer of furnishing board, lodging, or other facilities to such worker, so long as--

~~(A)~~ such facilities are customarily furnished by such employer to the employees of the employer; and

~~(B)~~ such cost does not exceed the fair market value of such facility and does not include any profit to the employer.

Agreed to in advance in disclosure statement

(d) SAFETY AND HEALTH IN TRANSPORTATION-

(1) STANDARDS- An employer of traveling sales crew workers shall provide transportation for such workers in a manner that is consistent with the following standards:

~~(A)~~ The employer shall ensure that each vehicle which the employer uses or causes to be used for such transportation conforms to the standards prescribed by the Secretary under paragraph (2) and conforms to other applicable Federal and State safety standards.

(B) The employer shall ensure that each driver of each such vehicle has a valid and appropriate license, as provided by State law, to operate the vehicle.

(C) The employer shall have an insurance policy or fidelity bond in accordance with subsection (c).

(2) PROMULGATION BY SECRETARY- The Secretary shall prescribe, by regulation, such safety and health standards as may be appropriate for vehicles used to transport traveling sales crew workers. In establishing such standards, the Secretary shall consider--

* ~~(A)~~ the type of vehicle used;

+ ~~(B)~~ the passenger capacity of the vehicle;

∇ (C) the distance which such workers will be carried in the vehicle;

⊂ (D) the type of roads and highways on which such workers will be carried in the vehicle;

* ~~(E)~~ the extent to which a proposed standard would cause an undue burden on an employer of traveling sales crew workers; and

~~(F)~~ any standard prescribed by the Secretary of Transportation under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.) or any successor provision of subtitle IV of title 49, United States Code.

(e) SAFETY AND HEALTH IN HOUSING- An employer of traveling sales crew workers shall provide housing for such workers in a manner that is consistent with the following standards:

(1) If the employer owns or controls the facility or real property which is used for housing

traveling sales crew workers, the employer shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. Prior to occupancy by such workers, the facility or real property shall be certified by a State or local health authority or other appropriate agency as meeting applicable safety and health standards. Written notice shall be posted in the facility or real property, prior to and throughout the occupancy by such workers, informing such workers that the applicable safety and health standards are met.

(2) If the employer does not own or control the facility or real property which is used for housing traveling sales crew workers, the employer shall be responsible for ensuring that the owner or operator of such facility or real property complies with substantive Federal and State safety and health standards applicable to that housing. Such assurance by the employer shall include the verification that the owner or operator of such facility or real property is licensed and insured in accordance with all applicable State and local laws. The employer shall obtain such assurance prior to housing any workers in the facility or real property.

(f) INSURANCE OF VEHICLES; WORKERS' COMPENSATION INSURANCE-

(1) INSURANCE- An employer of traveling sales crew workers shall ensure that there is in effect, for each vehicle used to transport such workers, an insurance policy or a liability bond which insures the employer against liability for damage to persons and property arising from the ownership, operation, or the causing to be operated of such vehicle for such purpose. The level of insurance or liability bond required shall be determined by the Secretary considering at least the factors set forth in subsection (d)(2) and any relevant State law.

(2) WORKERS' COMPENSATION- If an employer of traveling sales crew workers is the employer of such workers for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such workers as provided for by such State law, the following modifications to the requirements of paragraph (1) shall apply:

(A) No insurance policy or liability bond shall be required of the employer if such workers are transported only under circumstances for which there is workers' compensation coverage under such State law.

(B) An insurance policy or liability bond shall be required of the employer for all circumstances under which workers' compensation coverage for the transportation of such workers is not provided under such State law.

SEC. 205. ENFORCEMENT PROVISIONS.

(a) **CRIMINAL SANCTIONS-** An employer who willfully and knowingly violates this title, or any regulation promulgated under this title, shall be fined not more than \$10,000 or imprisoned for not to exceed 1 year, or both.

Upon conviction for any subsequent violation of this title, or any such regulation, an employer shall be fined not more than \$50,000 or imprisoned for not to exceed 3 years, or both.

(b) **JUDICIAL ENFORCEMENT-**

(1) **INJUNCTIVE RELIEF**- The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this title, or any regulation promulgated under this title, has been violated.

(2) **SOLICITOR OF LABOR**- Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this title, but all such litigation shall be subject to the direction and control of the Attorney General.

(c) **ADMINISTRATIVE SANCTIONS; PROCEEDINGS-**

(1) **CIVIL MONEY PENALTY**- Subject to paragraph (2), an employer that violates this title, or any regulation promulgated under this title, may be assessed a civil money penalty of not more than \$10,000 for each such violation.

(2) **DETERMINATION OF PENALTY**- In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account--

(A) the previous record of the employer in terms of compliance with this title and the regulations promulgated under this title; and

(B) the gravity of the violation.

(3) **PROCEEDINGS-**

(A) **IN GENERAL**- An employer that is assessed a civil money penalty under this subsection shall be afforded an opportunity for an agency hearing, upon request made within 30 days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as provided for in this paragraph, the assessment shall constitute a final and unappealable order.

(B) **ADMINISTRATIVE LAW JUDGE**- If a hearing is requested under subparagraph (A), the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates this decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 90 days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided for under subparagraph (C).

(C) **REVIEW**- An employer against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which the employer is located, or the United States District Court for the District of Columbia, by filing a notice of appeal in such court within 30 days from the date of such order and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review

shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(D) FAILURE TO PAY- If any person fails to pay an assessment after it has become a final and unappealable order under this paragraph, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(E) PAYMENT OF PENALTIES- All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(d) PRIVATE RIGHT OF ACTION-

(1) IN GENERAL- Any traveling sales crew worker aggrieved by a violation of this title, or any regulation promulgated under this title, by an employer may file suit in any district court of the United States having jurisdiction over the parties, without respect to the amount in controversy and without regard to exhaustion of any alternative administrative remedies provided for in this title.

(2) DAMAGES-

(A) IN GENERAL- If the court in an action under paragraph (1) finds that the defendant intentionally violated a provision of this Act, or a regulation promulgated under this Act, the court may award--

(i) damages up to and including an amount equal to the amount of actual damages;

(ii) statutory damages of not more than \$1,000 per plaintiff per violation or, if such complaint is certified as a class action, not more than \$1,000,000 for all plaintiffs in the class; or

(iii) other equitable relief.

(B) DETERMINATION OF AMOUNT- In determining the amount of damages to be awarded under subparagraph (A), the court may consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(C) WORKERS' COMPENSATION-

(i) IN GENERAL- Notwithstanding any other provision of this title, where a State workers' compensation law is applicable and coverage is provided for a traveling sales crew worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this title in the case of bodily injury or death in accordance with such State's workers' compensation law.

(ii) LIMITATION- The exclusive remedy provided for under clause (i) precludes the recovery under subparagraph (A) of actual damages for loss from an injury or death but does not preclude recovery under such subparagraph for

statutory damages (as provided for in clause (iii)) or equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect--

(I) a recovery under a State workers' compensation law; or

(II) rights conferred under a State workers' compensation law.

(iii) **STATUTORY DAMAGES-** In an action in which a claim for actual damages is precluded as provided for in clause (ii), the court shall award statutory damages of not more than \$20,000 per plaintiff per violation or, in the case of a class action, not more than \$1,000,000 for all plaintiffs in the class, if the court finds any of the following:

(I) The defendant violated section 204(d) by knowingly requiring or permitting a driver to drive a vehicle for the transportation of the plaintiff or plaintiffs while under the influence of alcohol or a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), the defendant had actual knowledge of the driver's condition, such violation resulted in the injury or death of the plaintiff or plaintiffs, and such injury or death arose out of and in the course of employment as defined under the State worker's compensation law.

(II) The defendant was found by the court or was determined in a previous administrative or judicial proceeding to have violated a safety standard prescribed by the Secretary under section 204 and such violation resulted in the injury or death of the plaintiff or plaintiffs.

(III) The defendant willfully disabled or removed a safety device prescribed by the Secretary under section 204, or the defendant in conscious disregard of the requirements of such section failed to provide a safety device required by the Secretary, and such disablement, removal, or failure to provide a safety device resulted in the injury or death of the plaintiff or plaintiffs.

(IV) At the time of the violation of section 204, which resulted in the injury or death of the plaintiff or plaintiffs, the employer or the supervisor of the traveling sales crew did not have a Certificate of Registration in accordance with section 203.

(iv) **DETERMINATION OF AMOUNT-** For purposes of determining the amount of statutory damages due to a plaintiff under this subparagraph, multiple infractions of a single provision of this title, or of regulations promulgated under this title, shall constitute a single violation.

(D) **ATTORNEY'S FEE-** The court shall, in addition to any judgment awarded to the plaintiff or plaintiffs under this paragraph, allow a reasonable attorney's fee to be paid by the defendant or defendants, and costs of the action.

(E) **APPEALS-** Any civil action brought under this subsection shall be subject to

appeal as provided for in chapter 83 of title 28, United States Code.

(e) DISCRIMINATION PROHIBITED-

(1) **IN GENERAL-** No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any traveling sales crew worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this

title, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of the worker or others of any right or protection afforded by this title.

(2) COMPLAINT-

(A) **IN GENERAL-** A traveling sales crew worker who believes, with just cause, that such worker has been discriminated against in violation of this subsection may, within 12 months of the date of such violation, file a complaint with the Secretary alleging such discrimination.

(B) **INVESTIGATION-** Upon receipt of a complaint under subparagraph (A), the Secretary shall cause such investigation to be made as the determines to be appropriate.

(C) **ACTIONS-** If upon an investigation under subparagraph (B), the Secretary determines that the provisions of this subsection have been violated, the Secretary shall bring an action in any appropriate United States district court against the person involved.

(D) **RELIEF-** In any action under subparagraph (C), the United States district court shall have jurisdiction, for cause shown, to restrain violations of this subsection and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

(f) **WAIVER OF RIGHTS-** Agreements by workers purporting to waive or to modify their rights under this title shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this title.

(g) AUTHORITY TO OBTAIN INFORMATION-

(1) **IN GENERAL-** To carry out this title, the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate and, in connection with such investigation, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this title, or regulations promulgated under this title.

(2) **PRODUCTION AND RECEIPT OF EVIDENCE-** The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with investigations under paragraph (1). The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation

provided for in this title, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary.

(3) CONFIDENTIALITY- The Secretary shall conduct investigations under paragraph (1) in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(4) VIOLATION- It shall be violation of this title for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform any investigation, inspection, or law enforcement function pursuant to this title during the performance of such duties.

(h) STATE LAWS AND REGULATIONS; GOVERNMENT AGENCIES-

(1) RELATION TO STATE LAWS- This title is intended to supplement State law, and compliance with this title shall not be construed to excuse any person from compliance with appropriate State laws and regulations.

(2) AGREEMENTS- The Secretary may enter into agreements with Federal and State agencies--

(A) to use their facilities and services;

(B) to delegate to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this title; and

(C) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under this paragraph.

(i) RULES AND REGULATIONS- The Secretary may issue such rules and regulations as may be necessary to carry out this title, consistent with the requirements of chapter 5 of title 5, United States Code.

END

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107th CONGRESS

1st Session

H. R. 3070

To amend the Fair Labor Standards Act of 1938 to ensure the protection of employees in travelling sales crews, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

October 9, 2001

Mr. PETRI (for himself and Mr. LANTOS) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to ensure the protection of employees in travelling sales crews, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Travelling Sales Crew Protection Act'.

SEC. 2. APPLICATION OF FAIR LABOR STANDARDS ACT OF 1938 TO CERTAIN OUTSIDE SALESMEN.

(a) IN GENERAL- Section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213) is amended by adding at the end the following:

'(k) For purposes of subsection (a)(1), and notwithstanding any other provision of law, the term 'outside salesman' does not include any individual employed in the position of a salesman, if the individual travels with a group of salespeople, including a supervisor, team leader or crew leader, and the employees in the group do not return to their permanent residences at the end of the work day.'

(b) LIMITATION ON CHILD LABOR- Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following:

If travelling sales crew, do not return home at end of day

(e) No individual under 18 years of age may be employed in a position requiring the individual to engage in door-to-door sales or in related support work in a manner that requires the individual to remain away from the individual's permanent residence for more than 24 hours.'

SEC. 3. PROTECTION OF TRAVELLING SALES CREWS.

(a) **TRAVELLING SALES CREW WORKER DEFINED-** (1) Except as provided in paragraph (2), the term 'travelling sales crew worker' means an individual who--

(A) is employed as a salesperson or in related support work;

(B) travels with a group of salespersons, including a supervisor; and

(C) is required to be absent overnight from his or her permanent place of residence--

(2) Such term does not include--

(D) any individual who meets the requirements of subparagraph (A) if such individual is travelling to a trade show or convention; or

(E) any immediate family member of a travelling sales crew employer.

(b) **SECRETARY TO PRESCRIBE RULES-** Not later than 180 days after the date of enactment of this Act, the Secretary of Labor (hereinafter in this Act, the 'Secretary') shall prescribe rules governing the protection of travelling sales crews. Such rules shall contain the following requirements:

(1) **REGISTRATION-** Each employer or supervisor of a travelling sales crew worker must obtain a certificate of registration from the Secretary. The Secretary shall prescribe the manner of application and the standards for issuance for such a certificate, including a reasonable fee for such application.

(2) **EMPLOYER REQUIREMENTS-** An employer of travelling sales crew workers must carry out the following duties, in accordance with the rules prescribed by the Secretary:

(A) **DISCLOSURE OF CONDITIONS OF EMPLOYMENT-** The employer must disclose to each travelling sales crew worker employed by such employer, in writing, information related to such worker's conditions of employment, including the rate of pay, applicable pay period, duration of employment, and whether the employer provides workers' compensation insurance coverage for the worker.

(B) **PAYMENT OF WAGES, RECORDKEEPING-** For each pay period, the employer must--

(i) pay to each travelling sales crew worker employed by such employer wages owed such worker when due;

(ii) make such payment in United States currency or by negotiable instrument; and

(iii) provide a written statement to each travelling sales crew worker employed by such employer, and maintain records

(which must be kept for at least 3 years), relating to the earnings of (and any withholdings of earnings from) each such worker.

(C) EMPLOYER PAYMENT OF EMPLOYEE BUSINESS EXPENSES- Other than a deduction from wages for the actual cost to the employer of any board, lodging, or other facilities provided by the employer to a travelling sales crew worker employed by such employer, the employer may not require the worker--

(i) to purchase any goods or services solely from the employer; or

(ii) to pay for any of the employer's business expenses.

(D) VEHICLE INSURANCE- The employer must maintain liability insurance coverage in compliance with any applicable State law and sufficient (as determined by the Secretary) to protect any travelling sales crew workers transported in such a vehicle and to ensure against liability to other persons and property arising from the use of such vehicle for such purpose, except that if the Secretary determines that such workers are covered under an applicable workers' compensation insurance policy provided by the employer, additional vehicle insurance covering such workers may be waived by the Secretary.

(E) TRANSPORTATION SAFETY- The employer must maintain any motor vehicle used to transport a travelling sales crew worker employed by such employer in compliance with any applicable Federal, State, or local vehicle safety standards and with any additional safety rules prescribed by the Secretary.

(F) HOUSING SAFETY- The employer must maintain any lodging owned or controlled by the employer in compliance with any applicable Federal, State, or local housing, sanitation, health, building, or other safety standards and with any additional safety rules prescribed by the Secretary.

Retaliation
(G) PROHIBITION ON DISCRIMINATION- An employer, or an agent of the employer, may not intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any travelling sales crew worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding, or because of the exercise, with just cause, by such worker on behalf of the worker or others of any right or protection afforded by this Act.

SEC. 4. ENFORCEMENT.

(a) CRIMINAL SANCTIONS- An employer that willfully and knowingly violates a rule prescribed under this Act shall be imprisoned for not more than one year or fined not more than \$10,000, or both. Upon conviction for a subsequent violation of a rule prescribed under this Act, an employer shall be imprisoned for not more than 3 years or fined not more than \$50,000, or both.

(b) CIVIL PENALTY- An employer that violates a rule prescribed under this Act shall be liable to the United States for a civil penalty of not more than \$10,000 for each such violation. The Secretary may assess and collect such civil penalty after a determination, made on the record after opportunity for an agency hearing, of--

(1) liability for such violation; and

(2) the appropriate amount of the penalty, based on the previous compliance record of the employer and the gravity of the violation.

(c) ADMINISTRATIVE ACTIONS- The Secretary shall prescribe rules providing a procedure for an aggrieved travelling sales crew worker to file an administrative complaint with the Secretary, which the Secretary shall investigate and follow up with any appropriate enforcement action against the employer of such worker, including referral to the Attorney General of such employer for criminal sanctions under subsection (a), the imposition by the Secretary of a civil penalty under subsection (b), or the filing of a civil action on behalf of such worker to enjoin such employer under subsection (d).

(d) CIVIL ACTION- Any person aggrieved by a violation of a rule prescribed under this Act (or the Secretary, on behalf of any such person) may bring, in an appropriate United States district court (without regard to the amount in controversy, the citizenship of the parties, or the exhaustion of administrative remedies), a civil action--

(1) to enjoin such violation;

(2) to recover the greater of--

(A) actual damages; or

(B) not more than \$1,000 for each such violation for each plaintiff (which may not exceed \$1,000,000 for all plaintiffs in a class); and

(3) for other equitable relief; and

(4) to recover the costs of the litigation and a reasonable attorney fee.

END



NOTE
FH 8/7

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① AN ACT ^{GEN}...; relating to: travelling sales crew workers, requiring the exercise of
2 rule-making authority, and providing penalties.

Analysis by the Legislative Reference Bureau
CURRENT LAW

HOUSE-TO-HOUSE EMPLOYMENT OF MINORS

Under current law, no person may employ, offer to employ, or recruit a minor to sell goods or services from house-to-house (house-to-house street trades) without obtaining a house-to-house employer certificate from the Department of Workforce Development (DWD). A person may obtain a house-to-house employer certificate by submitting an application to DWD that contains certain information required under current law, including documentation proving that the person has the ability to pay any compensation owed to a minor employee, which proof may be in the form of a bond, certificate of deposit, escrow account, or irrevocable letter of credit in an amount of at least \$5,000 (proof of financial responsibility). If the applicant establishes proof of financial responsibility and if DWD is satisfied that the applicant will comply with the laws relating to house-to-house street trades, DWD must issue a house-to-house employer certificate, which is valid for a 12-month period.

When a minor applies for a job in house-to-house street trades, the house-to-house employer must inform the minor in writing of the terms and conditions of employment, including the compensation to be paid, the time and manner of payment of compensation, the number of days per week and hours per day that the minor would be required to conduct house-to-house street trades, the nature and frequency of required employment-related meetings and how compensation is paid for attendance at those meetings, whether and how the employer provides transportation, and the expenses that the minor would be

required to pay. A house-to-house employer may change those terms and conditions⁵ by a supplemental document in writing⁶ if the change applies prospectively only.

DWD may suspend or revoke a house-to-house employer certificate if the employer submits false information in the application, fails to notify DWD of any change in that information within 30 days after the change occurs, fails to comply with the terms and conditions of a written disclosure statement, fails to maintain proof of financial responsibility, or fails to comply with the laws relating to house-to-house street trades.

THE BILL

TRAVELING SALES CREW WORKERS

Certificate of registration

This bill regulates employers of traveling sales crew workers, which the bill defines as individuals who are employed as salespersons or in related support work, who travel with a group of salespersons, including a supervisor, and who are required to be absent overnight from their permanent residences.

Specifically, under the bill, a person may not employ, offer to employ, or otherwise recruit an individual to work as a traveling sales crew worker without first obtaining a certificate of registration from DWD. A person may obtain a certificate of registration by completing an application, meeting the minimum requirements under the bill and ^{under} rules promulgated by DWD for issuance of a certificate of registration, and paying a registration fee determined by DWD by rule. The application must contain certain information specified in the bill, including all of the following:

1. The names and permanent home addresses of all proprietors, managing partners, managers, or principal officers of the applicant and information relating to the conviction records of those individuals.
2. The names, permanent home addresses, motor vehicle operator's license numbers, and dates of birth of all employees, agents, or representatives of the applicant who supervise or transport traveling sales crew workers and information relating to the conviction records of those individuals.
3. The type of sales activities to be performed and the nature of the goods or services to be sold.
4. A statement identifying each motor vehicle that will be used to transport traveling sales crew workers and documentation showing that each motor vehicle complies with all state and federal safety standards applicable to the motor vehicle.
5. A statement indicating whether the duties of the traveling sales crew workers of the applicant will include the storage, handling, or transportation of hazardous materials or may result in any other exposure of the traveling sales crew workers to hazardous materials and, if so, documentation showing that the applicant is in compliance with all state and federal safety standards applicable to the storage, handling, and transportation of the hazardous materials.
6. Documentation that the applicant has complied with the proof of financial responsibility, written disclosure statement, and proof of insurance requirements under the bill.

On receipt of an application, DWD must investigate to determine whether the applicant is qualified to receive a certificate of registration. That investigation must include a criminal history search of all proprietors, managing partners, managers, or principal officers of the applicant and of all employees, agents, or representatives of the applicant who supervise or transport traveling sales crew workers. After completing the investigation, DWD must issue a certificate of registration, which is valid for a 12-month period, if the applicant meets the minimum requirements for issuance of a certificate of registration and DWD is satisfied that the applicant will comply with the bill and rules promulgated under the bill.

DWD may deny, suspend, revoke, restrict, or refuse to renew a certificate of registration if any of the following apply:

1. The applicant or registrant is not the real party in interest with respect to the application or certificate of registration, and the real party in interest has been denied issuance or renewal of a certificate of registration, has had a certificate of registration suspended, revoked, or restricted, or is not qualified to receive a certificate of registration.

2. A proprietor, managing partner, manager, or principal officer of the applicant or an employee, agent, or representative of the applicant who supervises or transports traveling sales crew workers has been convicted of a disqualifying offense, as defined in the bill, within the five years preceding the date of the application. Generally, a disqualifying offense under the bill includes certain offenses relating to drugs or alcohol, if committed in connection with or incident to any traveling sales crew activities; certain crimes involving misappropriation of property, if the value of the property misappropriated is \$2,500 or more; and certain crimes against life or bodily security, such as homicide, assault, or sexual assault, certain crimes involving damage to or trespass against property, such as arson or burglary, certain crimes involving prostitution, and certain crimes against children.

3. The applicant or registrant has made a material misrepresentation or false statement in the application.

4. The applicant or registrant has failed to notify DWD of any change in the information submitted in the application within 30 days after the change occurs.

5. The applicant or registrant has failed to maintain proof of financial responsibility as required under the bill, failed to comply with the written disclosure statement requirements under the bill, failed to pay wages as required under the bill, failed to maintain insurance coverage as required under the bill, engaged in a practice prohibited under the bill, or otherwise failed to comply with the bill or any rules promulgated under the bill.

Employer requirements

The bill requires an applicant for a certificate of registration to establish proof of its ability to pay any compensation owed to a traveling sales crew worker, which proof may be in the form of a bond, certificate of deposit, escrow account, or irrevocable letter of credit in an amount approved by DWD, but not less than \$5,000.

The bill requires an employer to provide an individual who is offered employment as a traveling sales crew worker with a written disclosure statement of

the terms of employment. The written disclosure statement must include all of the following information:

1. The place or places of employment, stated with as much specificity as possible.
2. The compensation to be paid.
3. The type or types of work on which the individual may be employed.
4. The pay period and the manner in which compensation will be paid.
5. The number of days per week and hours per day the individual may be required to engage in sales activities or related support work.
6. The nature and frequency of any employment-related meetings that the individual may be required to attend, the time of day of those meetings, and how compensation is paid for attendance at those meetings.
7. The period of employment, including the approximate beginning and ending dates of employment.
8. A description of the board, lodging, and other facilities to be provided and any costs to be charged to the individual for those facilities.
9. A description of the transportation to be provided and, if the employment will involve the storage, handling, or transportation of a hazardous material or may result in any other exposure to hazardous materials, a description of the hazardous materials.
10. Whether worker's compensation is provided.

The bill also requires an employer of a traveling sales crew worker to do all of the following:

1. Pay all compensation earned by the worker in U.S. currency or by check or draft on regular pay days designated in advance, but in no case less often than semimonthly; to provide with each payment a written statement itemizing gross pay, net pay, and the amount of and reason for each deduction from gross pay; and to keep records of that information for three years after the worker leaves the employ of the employer.
2. Maintain and operate any motor vehicle used to transport traveling sales crew workers in compliance with all state and federal safety standards that are applicable to the motor vehicle, including any additional safety standards relating specifically to the transportation of sales crew workers prescribed by DWD by rule.
3. If the duties of a traveling sales crew worker will involve the storage, handling, or transportation of hazardous materials or might otherwise result in exposure of the traveling sales crew worker to hazardous materials, ensure that the hazardous materials are stored, handled, and transported, and that the worker is trained in the storage, handling, and transportation of hazardous materials, in compliance with all state and federal safety standards that are applicable to the hazardous materials, including any additional safety standards relating specifically to the storage, handling, and transportation of hazardous materials by traveling sales crew workers prescribed by DWD by rule.
4. Provide worker's compensation coverage, if required to do so under the worker's compensation law (generally, an employer is required to provide worker's compensation coverage if the employer employs three or more employees or pays

wages of \$500 or more in any calendar quarter. If not required to provide worker's compensation coverage, the employer must have in force a motor vehicle liability insurance policy in an amount determined by DWD by rule.

Prohibited practices

The bill prohibits an employer and any employee, agent, or representative of an employer who supervises or transports traveling sales crew workers from doing any of the following:

1. Employing a minor as a traveling sales crew worker.
2. Requiring a traveling sales crew worker to engage in any in-person sales or solicitation activities before 9:00 a.m. or after 9:00 p.m.
3. Considering a traveling sales crew worker to be an independent contractor rather than an employee.
4. Requiring a traveling sales crew worker to purchase any goods or services solely from the employer or to pay any of the employer's business expenses, except that an employer may deduct from a worker's compensation the cost of furnishing board, lodging, or other facilities if those facilities are customarily furnished to the employer's traveling sales crew workers, the amount deducted does not exceed the fair market value of those facilities and does not include any profit to the employer, and the worker has previously authorized the deduction in the written disclosure statement.
5. Discharge^{ing} or discriminate^{ing} against any person for opposing any practice prohibited under the bill.

Nonapplicability and n^apreemption

Finally, the bill does not apply to fund^{ing} raising sales by a nonprofit organization or school and does not preempt a county, city, village, or town from enacting a local ordinance regulating the sale of goods or services on the street or in any other public place or from house-to-house.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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.** 21.72 (1) (a) 10. of the statutes is amended to read:
- 2 21.72 (1) (a) 10. A certificate issued under s. 103.275, 103.34, 103.91, or 103.92.
- 3 **SECTION 2.** 49.857 (1) (d) 10. of the statutes is amended to read:

History: 2001 a. 22.

1 49.857 (1) (d) 10. A certificate issued under s. 103.275, 103.34, 103.91, or
 2 103.92.

3 **History:** 1997 a. 191; 1999 a. 9, 31, 32, 186; 2001 a. 56, 61.

3 **SECTION 3.** 73.0301 (1) (d) 3m. of the statutes is amended to read:

4 73.0301 (1) (d) 3m. A license or certificate issued by the department of
 5 workforce development under s. 102.17 (1) (c), 103.275 (2) (b), 103.34 (3) (c), 103.91
 6 (1), 103.92 (3), 104.07 (1) or (2) or 105.13 (1).

7 **History:** 1997 a. 237 ss. 301, 307, 532; 1999 a. 9, 31, 32, 186; 2001 a. 56.

7 **SECTION 4.** 103.005 (10) of the statutes is amended to read:

8 103.005 (10) Except as provided in ss. 103.275 (2) (bm) and (br), 103.34 (10) (b)
 9 and (c), 103.91 (4) (b) and (c), 103.92 (6) and (7), 104.07 (5) and (6), and 105.13 (2) and
 10 (3), orders of the department under chs. 103 to 106 shall be subject to review in the
 11 manner provided in ch. 227.

12 **History:** 1995 a. 27 ss. 2030, 3649r, 3747, 9130 (4); 1995 a. 215, 404; 1997 a. 3, 191, 237; 2001 a. 61.

12 **SECTION 5.** 103.34 of the statutes is created to read:

13 **103.34 Traveling sales crew workers.** (1) DEFINITIONS: In this section:

14 (a) "Certificate of registration" means a certificate of registration issued under
 15 this section authorizing a person to employ traveling sales crew workers.

16 (b) "Disqualifying offense" means any of the following:

17 1. A violation of s. 125.07 (1) (a), (2) (a) 1. or 2., or (4) (a) or (b), 125.085 (3) (a)
 18 or (b), 125.09 (2), 961.41 (1) or (1m), 961.573 (2), 961.574 (2), or 961.575 (2) or of a
 19 substantially similar federal law or law of another state, if the violation was
 20 committed in connection with or incident to any traveling sales crew activities.

21 2. A violation of ^{s.} 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08, 940.09,
 22 940.10, 940.19 (2), ^a (3), (4), (5), or (6), 940.21, 940.225 (1), (2), or (3), 940.23, 940.24,
 23 940.25, 940.30, 940.305, 940.31, 943.02, 943.03, 943.04, 943.10, 943.30, 943.31,
 24 943.32, 944.32, 944.33 (2), 944.34, 946.10, 948.02 (1) or (2), 948.025, 948.03 (2) or (3),

1 948.04, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 (2) (a) or (am),
2 948.12, 948.13, 948.21 (1), or 948.30 or of a substantially similar federal law or law
3 of another state.

④ 3. A violation of s. 943.20, 943.201, 943.21, 943.23, 943.24 (2), 943.34, 943.50,
5 943.61, 943.62, or 943.70 or of a substantially similar federal law or law of another
6 state, if the value of the property misappropriated is \$2,500 or more.

7 (c) "Hazardous materials" has the meaning given in 49 USC 5102 (2).

8 (d) "Traveling sales crew worker" means an individual who is employed as a
9 salesperson or in related support work, who travels with a group of salespersons,
10 including a supervisor, and who is required to be absent overnight from his or her
11 permanent place of residence. "Traveling sales crew worker" does not include an
12 individual who is traveling to a trade show or convention or any immediate family
13 member of an employer of a traveling sales crew.

14 (2) REGISTRATION REQUIRED. No person may employ, offer to employ, or
15 otherwise recruit an individual to work as a traveling sales crew worker without first
16 obtaining a certificate of registration from the department. To obtain a certificate
17 of registration, a person shall complete an application under sub. (3) (a), meet the
18 minimum requirements specified in sub. (3) (c) for issuance of a certificate of
19 registration, and pay a registration fee determined by the department by rule
20 promulgated under sub. (12). A certificate of registration is valid for 12 months
21 unless sooner suspended, restricted, or revoked and is nontransferable. A registrant
22 may renew a certificate of registration by submitting an application under sub. (3)
23 (a) and paying the registration fee not less than 30 days before the expiration date
24 of the certificate of registration.

1 (3) APPLICATION FOR REGISTRATION. (a) To obtain a certificate of registration, a
2 person shall complete an application that contains all of the following information:

3 1. The name of the applicant and the address and telephone number of the
4 applicant's principal place of business.

5 2. If the applicant is a corporation, the date and place of the applicant's
6 incorporation or, if the applicant is a limited liability company, the date and place of
7 the applicant's organization.

8 3. The names and permanent home addresses of the proprietors, managing
9 partners, managers, or principal officers of the applicant.

10 4. The names, permanent home addresses, motor vehicle operator's license
11 numbers, and dates of birth of all employees, agents, or representative^s of the
12 applicant who supervise or transport traveling sales crew workers.

13 5. Information regarding the conviction record of all proprietors, managing
14 partners, managers, or principal officers of the applicant, and of all employees,
15 agents, or representative^s of the applicant who supervise or transport traveling sales
16 crew workers.

17 6. The social security number or federal employer identification number of the
18 applicant as provided in sub. (10) (a).[✓]

19 7. The type of sales activities to be performed and the nature of the goods or
20 services to be sold by the traveling sales crew workers of the applicant.

21 8. A statement identifying each motor vehicle that will be used to transport the
22 applicant's traveling sales crew workers, including the type and license number of
23 each motor vehicle, and documentation showing that each motor vehicle is in
24 compliance with all state and federal safety standards that are applicable to the
25 motor vehicle as provided in sub. (7) (a).[✓]

1 9. A statement indicating whether the duties of the applicant's traveling sales
2 crew workers will include the storage, handling, or transportation of hazardous
3 materials or may result in any other exposure of those workers to hazardous
4 materials and, if so, documentation showing that the applicant is in compliance with
5 all state and federal safety standards that are applicable to the storage, handling,
6 and transportation of the hazardous materials as provided in sub. (7) (b).[✓]

7 10. Any document required by the department to prove that the applicant has
8 complied with the proof of financial responsibility requirement under sub. (4),[✓] the
9 disclosure statement requirement under sub. (5),[✓] and the proof of insurance
10 requirement under sub. (8).[✓]

11 11. Any other information that the department considers relevant to the
12 protection of the health, safety, and welfare of the traveling sales crew workers
13 employed by the applicant.

14 (b) 1. On receipt of an application under par. (a)[✓] and payment of the registration
15 fee under sub. (2),[✓] the department of workforce development shall investigate the
16 applicant to determine whether the applicant is qualified under par. (c)[✓] to receive a
17 certificate of registration. That investigation shall include a criminal history search
18 by the department of justice of all proprietors, managing partners, managers, or
19 principal officers of the applicant, and of all employees, agents, or representatives
20 of the applicant who supervise or transport traveling sales crew workers.

21 2. If the person being investigated is, or at any time within the 5 years
22 preceding the date of the application has been, a nonresident or if the department
23 of workforce development determines that any information obtained as a result of
24 the criminal history search under subd. 1.[✓] provides a reasonable basis for further
25 investigation, the department of workforce development may require the person

1 being investigated to be fingerprinted on 2 fingerprint cards, each bearing a complete
2 set of the person's fingerprints. The department of justice may provide for the
3 submission of the fingerprint cards to the federal bureau of investigation for the
4 purposes of verifying the identification of the person and obtaining the person's
5 criminal conviction record. The department of workforce development shall keep
6 confidential all information received from the department of justice and the federal
7 bureau of investigation under this subdivision.

8 (c) Subject to par. (d) and sub. (10) (b) and (c), after completing the investigation
9 under par. (b), the department shall issue a certificate of registration to the applicant
10 if the department determines that the applicant meets the minimum requirements
11 under this section and rules promulgated under sub. (12) for issuance of a certificate
12 of registration and is satisfied ^{that} ~~the~~ ^a applicant will comply with this section and
13 those rules.

14 (d) The department may deny, suspend, revoke, restrict, or refuse to renew a
15 certificate of registration if the department determines that any of the following
16 apply:

17 1. The applicant or registrant is not the real party in interest with respect to
18 the application or certificate of registration and the real party in interest has
19 previously been denied issuance or renewal of a certificate of registration, has had
20 a certificate of registration suspended, revoked, or restricted, or is not qualified to
21 receive a certificate of registration under par. (c).

22 2. A proprietor, managing partner, manager, or principal officer of the
23 applicant, or an employee, agent, or representative of the applicant who supervises
24 or transports traveling sales crew workers has been convicted of a disqualifying
25 offense within the 5 years preceding the date of the application.

1 3. The applicant or registrant has made a material misrepresentation or false
2 statement in the application for the certificate of registration.

3 4. The applicant or registrant has failed to notify the department of any change
4 in the information submitted in the application as required under par. (e).[✓]

5 5. The applicant or registrant has failed to maintain proof of financial
6 responsibility as required under sub. (4);[✓] failed to comply with the written disclosure
7 statement requirements under sub. (5) (b);[✓] failed to pay wages, provide a statement,
8 or keep, preserve, or furnish records as required under sub. (6);[✓] violated a safety
9 standard under sub. (7);[✓] failed to maintain insurance coverage as required under
10 sub. (8);[✓] engaged in a practice prohibited under sub. (9);[✓] failed to pay a penalty
11 imposed under sub. (11) or to comply with an order of the department imposed as a
12 result of a violation of this section or any rule promulgated under sub. (12);[✓] or
13 otherwise failed to comply with this section or any rule promulgated under sub. (12).[✓]

14 (e) If any change occurs in any of the information submitted to the department
15 under par. (a),[✓] the registrant shall notify the department of that change within 30
16 days after the change occurs.

17 (f) A registrant and all employees, agents, or representatives of a registrant
18 who supervise or transport traveling sales crew workers shall carry at all times while
19 engaging in traveling sales crew activities a copy of the registrant's certificate of
20 registration and shall exhibit that copy upon the request of any deputy of the
21 department, law enforcement officer, or person with whom the registrant, employee,
22 agent, or representative is doing business.

23 (4) FINANCIAL RESPONSIBILITY. (a) An applicant shall establish proof of its ability
24 to pay any compensation owed to a traveling sales crew worker employed by the
25 applicant and any penalties that may be imposed under sub. (11).[✓]

1 (b) An applicant shall prove its ability to pay under par. (a) by maintaining one
2 of the following commitments in an amount approved by the department, but not less
3 that \$5,000, and in a form approved by the department:

- 4 1. A bond.
- 5 2. A certificate of deposit.
- 6 3. An escrow account.
- 7 4. An irrevocable letter of credit.

8 (c) The commitment described in par. (b) shall be established in favor of or made
9 payable to the department, for the benefit of the state and any traveling sales crew
10 worker who does not receive the compensation earned by the worker. The applicant
11 shall file with the department any agreement, instrument, or other document
12 necessary to enforce the commitment against the applicant or any relevant 3rd party,
13 or both.

14 (5) DISCLOSURE STATEMENT. (a) At the time an individual is offered employment
15 as a traveling sales crew worker or is otherwise recruited to work as a traveling sales
16 crew worker, the employer shall provide the individual with a written disclosure
17 statement of the terms of employment. If the individual accepts the offer of
18 employment, the employer and the individual shall sign the written disclosure
19 statement. A written disclosure statement shall include all of the following
20 information:

- 21 1. The place or places of employment, stated with as much specificity as
22 possible.
- 23 2. The compensation, including wage rates, commissions, bonuses, and contest
24 awards, to be paid.
- 25 3. The type or types of work on which the individual may be employed.

1 4. The pay period and the manner in which compensation will be paid.

2 5. The number of days per week and hours per day the ~~the~~ individual may be
3 required to engage in sales activities or related support work.

4 6. The nature and frequency of any employment-related meetings that the
5 individual may be required to attend, the time of day of those meetings, and how
6 compensation is paid for attendance at those meetings.

7 7. The period of employment, including the approximate beginning and ending
8 dates of employment.

9 8. A description of the board, lodging, and other facilities to be provided by the
10 employer to the individual and any costs to be charged to the individual for those
11 facilities.

12 9. A description of the transportation to be provided by the employer to the
13 individual and, if the employment will involve the storage, handling, or
14 transportation of hazardous materials or may involve any other exposure to
15 hazardous materials, a description of the hazardous materials.

16 10. Whether worker's compensation is provided and, if so, the name and
17 telephone number of the employee, agent, or representative of the employer to whom
18 notice of a claim for worker's compensation must be provided and the time period
19 within which that notice must be provided.

20 (b) An employer of a traveling sales crew worker shall comply with the terms
21 of a disclosure statement provided under par. (a).[✓] An employer may change the terms
22 of a disclosure statement, but no change is effective until a supplemental disclosure
23 statement is signed by the employer and the traveling sales crew worker ~~and~~ any
24 change to the terms of a disclosure statement may apply prospectively only.

1 (6) PAYMENT OF COMPENSATION; DEDUCTIONS; STATEMENTS; RECORDS. (a) An
2 employer shall pay all compensation earned by a traveling sales crew worker on
3 regular pay days designated in advance by the employer, but in no case less often
4 than semimonthly. Compensation shall be paid in U.S. currency or by check or draft.

5 (b) An employer may deduct from a traveling sales crew worker's compensation
6 the cost to the employer of furnishing board, lodging, or other facilities to the worker
7 if the board, lodging, or other facilities are customarily furnished by the employer to
8 the traveling sales crew workers of the employer; the amount deducted does not
9 exceed the fair market value of the board, lodging, or other facilities and does not
10 include any profit to the employer; and the traveling sales crew worker has
11 previously authorized the deduction by signing a written disclosure statement under
12 sub. (5) (a) that includes a description of the board, lodging, and other facilities to be
13 provided and any costs to be charged to the worker for those facilities.

14 (c) An employer shall provide with each payment of compensation to a traveling
15 sales crew worker a written statement itemizing the amount of gross and net
16 compensation paid to the worker and the amount of and reason for each deduction
17 from the amount of gross compensation. An employer shall keep records of the
18 information specified in this paragraph with respect to each traveling sales crew
19 worker of the employer, shall preserve those records for 3 years after the worker
20 leaves the employ of the employer, and shall furnish those records to the department
21 on request.

22 (d) A traveling sales crew worker who is owed compensation may file a wage
23 claim with the department under s. 109.09 (1) or may bring an action under s. 109.03
24 (5) without first filing a wage claim with the department.

1 (7) WORKER SAFETY. (a) An employer of a traveling sales crew worker shall
2 maintain and operate, or cause to be maintained and operated, any motor vehicle
3 used to transport a traveling sales crew worker in compliance with all state and
4 federal safety standards that are applicable to the maintenance and operation of the
5 motor vehicle, including any additional safety standards relating specifically to the
6 transportation of traveling sales crew workers prescribed by the department by rule
7 promulgated under sub. (12).[✓] In prescribing those additional safety standards, the
8 department shall consider all of the following:

9 1. The types of motor vehicles that are commonly used to transport traveling
10 sales crew workers.

11 2. The safe passenger-carrying capacity of those motor vehicles.

12 3. The extent to which a proposed safety standard would cause an undue
13 burden to traveling sales crew employers.

14 4. Any safety standards prescribed by the federal secretary of transportation
15 under 49 USC 13101 to 14901, 49 USC 30101 to 30169, and 49 USC 31301 to 31317
16 and any other chapter of title 49 of the United States Code that are applicable to the
17 maintenance and operation of a motor vehicle that is commonly used to transport
18 traveling sales crew workers.

19 (b) If the duties of a traveling sales crew worker include the storage, handling,
20 or transportation of hazardous materials or may result in any other exposure of ^athe
21 traveling sales crew worker to hazardous materials, the employer shall ensure that
22 the hazardous materials are stored, handled, and transported, and ~~the~~ that traveling
23 sales crew worker is trained in the safe storage, handling, and transportation of
24 hazardous materials, in accordance with all state and federal safety standards that
25 are applicable to the storage, handling, and transportation of hazardous materials

1 or to exposure to hazardous materials, including any additional safety standards
2 relating specifically to the storage, handling, and transportation of hazardous
3 materials by travelling sales crew workers or to the exposure of traveling sales crew
4 workers to hazardous materials prescribed by the department by rule promulgated
5 under sub. (12). In prescribing those additional safety standards, the department
6 shall consider all of the following:

7 1. The types of hazardous materials that are included in products commonly
8 sold by traveling sales crew workers.

9 2. The extent to which a proposed safety standard would cause an undue
10 burden to traveling sales crew employers.

11 3. Any safety standards prescribed by the federal secretary of transportation
12 under 49 USC 5101 to 51237 or by the federal occupational safety and health
13 administration under 29 USC 651 to 678 that are applicable to the storage, handling,
14 and transportation of a hazardous materials by a traveling sales crew worker or to
15 any other exposure of a traveling sales crew worker to hazardous materials.

16 (8) INSURANCE COVERAGE. If the employer of a traveling sales crew worker is
17 required under s. 102.28 (2) to provide worker's compensation coverage for its
18 employees, the employer shall provide that coverage. If the employer of a traveling
19 sales crew worker is not required under s. 102.28 (2) to provide worker's
20 compensation coverage for its employees, the employer shall have in force a policy
21 of insurance that insures the employer, in an amount prescribed by the department
22 by rule, ^{promulgated under sub. (12)} against liability for damages to persons and property arising out of the
23 ownership or operation by the employer or by any employee, agent, or representative
24 of the employer of a motor vehicle that is used to transport a traveling sales crew
25 worker.

1 (9) PROHIBITED PRACTICES. No employer of a traveling sales crew worker and
2 no employee, agent, or representative of that employer who supervises or transports
3 traveling sales crew workers may do any of the following:

4 (a) Employ or permit to work as a traveling sales crew worker a person under
5 18 years of age.

6 (b) Require a traveling sales crew worker to engage in any in-person sales or
7 solicitation activities before 9:00 a.m. or after 9:00 p.m.

8 (c) Consider a traveling sales crew worker to be an independent contractor
9 rather than an employee.

10 (d) Require a traveling sales crew worker to purchase any goods or services
11 solely from the employer or to pay any of the employer's business expenses, except
12 as permitted under sub. (6) (b).

13 (e) Discharge or discriminate against any person for opposing a practice
14 prohibited under this section. Section 111.322 (2m) applies to discharge and other
15 discriminatory acts arising in connection with any proceeding under this section.

16 (10) CHILD SUPPORT; DELINQUENT TAXES. (a) 1. Except as provided in subd. 3.,
17 the department shall require each applicant for a certificate of registration who is
18 an individual to provide the department with the applicant's social security number,
19 and shall require each applicant for a certificate of registration who is not an
20 individual to provide the department with the applicant's federal employer
21 identification number, when initially applying for or applying to renew the certificate
22 of registration.

23 2. If an applicant who is an individual fails to provide the applicant's social
24 security number to the department or if an applicant who is not an individual fails
25 to provide the applicant's federal employer identification number to the department,

1 the department may not issue or renew a certificate of registration to or for the
2 applicant unless the applicant is an individual who does not have a social security
3 number and the applicant submits a statement made or subscribed under oath or
4 affirmation as required under subd. 3.↓

5 3. If an applicant who is an individual does not have a social security number,
6 the applicant shall submit a statement made or subscribed under oath or affirmation
7 to the department that the applicant does not have a social security number. The
8 form of the statement shall be prescribed by the department. A certificate of
9 registration issued in reliance upon a false statement submitted under this
10 subdivision is invalid.

11 4. The subunit of the department that obtains a social security number or a
12 federal employer identification number under subd. 1.↓ may not disclose the social
13 security number or the federal employer identification number to any person except
14 to the department of revenue for the sole purpose of requesting certifications under
15 s. 73.0301↓ or on the request of the subunit of the department that administers the
16 child and spousal support program under s. 49.22 (2m).↓

17 (b) The department shall deny, suspend, restrict, refuse to renew or otherwise
18 withhold a certificate of registration for failure of the applicant or registrant to pay
19 court-ordered payments of child or family support, maintenance, birth expenses,
20 medical expenses, or other expenses related to the support of a child or former spouse
21 or for failure of the applicant or registrant to comply, after appropriate notice, with
22 a subpoena or warrant issued by the department or a county child support agency
23 under s. 59.53 (5)↓ and related to paternity or child support proceedings, as provided
24 in a memorandum of understanding entered into under s. 49.857.↓ Notwithstanding
25 s. 103.005 (10),↓ an action taken under this paragraph is subject to review only as

1 provided in the memorandum of understanding entered into under s. 49.857[↓] and not
2 as provided in ch. 227.[↓]

3 (c) The department shall deny an application for the issuance or renewal of a
4 certificate of registration, or revoke a certificate of registration already issued, if the
5 department of revenue certifies under s. 73.0301[↓] that the applicant or registrant is
6 liable for delinquent taxes. Notwithstanding s. 103.005 (10),[↓] an action taken under
7 this paragraph is subject to review only as provided under s. 73.0301 (5)[↓] and not as
8 provided in ch. 227.[↓]

9 (11) PENALTIES; ENFORCEMENT. (a) Any person that employs or permits the
10 employment of any individual as a traveling sales crew worker in violation of this
11 section, any rule promulgated under sub. (12), or any order issued under this section
12 or who hinders or delays the department or any law enforcement officer in the
13 performance of their duties under this section may be required to forfeit not less than
14 \$25 nor more than \$1,000 for each day of a first offense and, for a 2nd or subsequent
15 offense within 5 years, as measured from the dates the violations initially occurred,
16 may be fined not less than \$250 nor more than \$5,000 for each day of the 2nd or
17 subsequent offense or imprisoned not more than 30 days or both.

18 (b) In addition to the penalties under par. (a),[↓] any person that employs or
19 permits the employment of any individual as a traveling sales crew worker in
20 violation of sub. (2),[↓] (5) (b),[↓] or (9) (b)[↓] shall be liable, in addition to the wages paid, to
21 pay to each individual affected, an amount equal to twice the regular rate of pay as
22 liquidated damages for all hours worked in violation per day or per week, whichever
23 is greater.

1 (c) The department may refer violations of this section or of any rules
2 promulgated under sub. (12) for prosecution by the department of justice or the
3 district attorney of the county in which the violation occurred.

4 (12) RULES. The department shall promulgate rules to implement this section.
5 Those rules shall include all of the following:

6 (a) A fee for obtaining a certificate of registration. The department shall
7 determine the fee based on the cost of issuing certificates of registration.

8 (b) Minimum requirements for the issuance of a certificate of registration.

9 (c) Safety standards relating to the transportation of traveling sales crew
10 workers, the storage, handling, and transportation of hazardous materials by
11 traveling sales crew workers and any other exposure of a traveling sales crew worker
12 to hazardous materials, and the training of traveling sales crew workers in the
13 storage, handling, and transportation of hazardous materials.

14 (d) The amount of motor vehicle liability insurance that an employer of a
15 traveling sales crew worker shall have in force under sub. (8).[↓]

16 (13) NONAPPLICABILITY; NONPREEMPTION. (a) This section does not apply to the
17 employment of a person in a fund^oraising sale for a nonprofit organization, as defined
18 in s. 103.21 (2),[↓] a public school, as defined in s. 103.21 (5),[↓] or a private school, as
19 defined in s. 103.21 (4).[↓]

20 (b) This section does not preempt a county, city, village, or town from enacting
21 a local ordinance regulating street trades, as defined in s. 103.21 (6).[↓] To the extent
22 that a local ordinance regulates conduct that is regulated under this section, the local
23 ordinance shall be at least as strict as the regulation of that conduct under this
24 section.

25 SECTION 6. 111.322 (2m) (a) of the statutes is amended to read:

1 111.322 (2m) (a) The individual files a complaint or attempts to enforce any
2 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, 103.50,
3 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to 101.599 or 103.64 to
4 103.82.

5 **History:** 1981 c. 334; 1989 a. 228, 359; 1997 a. 237; 1999 a. 150 s. 672; 1999 a. 167, 176.

5 **SECTION 7.** 111.322 (2m) (b) of the statutes is amended to read:

6 111.322 (2m) (b) The individual testifies or assists in any action or proceeding
7 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
8 103.34, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to
9 101.599 or 103.64 to 103.82.

10 **History:** 1981 c. 334; 1989 a. 228, 359; 1997 a. 237; 1999 a. 150 s. 672; 1999 a. 167, 176.

AR.A

10 **SECTION 8. Nonstatutory provisions.**

AR.B

11 (1) **RULE-MAKING.** The department of workforce development shall submit in
12 proposed form the rules required under section 103.34 (12) of the statutes, as created
13 by this act, to the legislative council staff under section 227.15 (1) of the statutes no
14 later than the first day of the 6th month beginning after the effective date of this
15 subsection.

16 **SECTION 9. Effective dates.** This act takes effect on the first day of the 12th
17 month beginning after publication after publication, except as follows:

18 (1) **RULE-MAKING.** The treatment of SECTION 8 (1) of this act takes effect on the
19 day after publication.

AR.A TB
AR.

20 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2765/1dn

GMM.../...
WLS

Senator Erpenbach:

As you will see, this draft includes for the consideration of the working group numerous provisions in addition to the components set forth in the drafting instructions. I gleaned those additional provisions primarily from the following sources:

1. The Traveling Sales Crew Protection Act, which was introduced as Senate Bill 96 in the 107th Congress by Senator Kohl.
2. Section 103.275, which regulates house-to-house employers of minors.

If you or the working group have any questions about this draft or would like an explanation of the draft, I would be happy to meet with you or the group at your convenience to answer those questions or provide that explanation.

Gordon M. Malaise
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FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2765/1dn
GMM:wlj:jf

August 7, 2003

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