

Malaise, Gordon

From: Templeton, Carrie
Sent: Monday, February 09, 2004 10:57 AM
To: Malaise, Gordon
Subject: Changes to LRB-2765 ASAP

Hi Gordon:

Senator Erpenbach would like the attached changes made to LRB-2765 ASAP-preferably by the end of today, but as soon as possible.

Please email me back to acknowledge receipt of this request.

Please contact me with any questions. Thank you.
Carrie



MODIFICATIONS
O TRAVELING SAL.

Carrie Templeton
Office of Senator Jon Erpenbach
(608) 266-6670

MODIFICATIONS TO TRAVELING SALES CREW DRAFT
LRB-2765

services to consumers

Change title to §103.34 Regulation of Traveling Sales Crews
Create "traveling sales crew" definition: "Two or more salespersons traveling together and staying away from home overnight for purposes of selling goods or merchandise either house to house, on public streets or in public places to consumers. A traveling sales crew does not include *a group of* salespersons traveling together for purposes of participating in a trade show, convention or immediate family members traveling together for the purpose of selling goods or services."

other

require licensure (registration) for the employer, crew chief and each individual traveling sales crewmember. (We need to enact legislation authorizing police officers to stop the salespersons to verify some basic information that would allow the officer to assess whether the person is legally soliciting) Given this change, any crewmember on the streets selling without a license could be cited as well as the crew chief and the employer. The police officer would issue citations to those presents similar to a traffic citation. Additionally, the officer would file a report with DWD (Labor Standards Bureau) who would attempt to follow up with prosecution of the employer (if possible) for the employer's violation.

As an incentive to police departments in enforcing this law, we would recommend the fines collected be retained either by the municipality or the police department. - *Municipality may enact ordinance regarding conduct that strictly enforces*
Fine amount?

NOTE

fold into (12)

Additional registration requirements to be provided at time of application:
✓ Proof of identification from birth certificate or state identification card.

✓ The name, address, and phone number of the clearinghouse or distributor that the sales crew/sales agent is working for. Most of the sales crew names are a.k.a.'s for the clearinghouse. We need to know exactly who the sales crew is really working for.

✓ The sales agent should be issued a "sales badge" that displays the agents name and the name of their company. This could be included as part of the solicitation permit.

✓ The bill should require that the sales crew and clearinghouse (including the sales agents) are covered by liability insurance.
Increase minimum bonding requirement to \$10,000

Under employer requirements, add: 5) In the case of magazine subscription selling: Supply a list of all magazine publishers being sold with names, addresses and phone numbers.

Under prohibited practices, add:
✓ 1a) Employing an adult who is mentally handicapped without parental/legal guardian permission.
✓ 6) Abandoning a crew worker because they are sick or cannot make their sales quota.

- 7) Requiring the crew worker to relinquish their personal identification, money, cell phone, wallet, purse to any party involved in the traveling sales crew. (The crew managers do this so the kids come back to the designated pick up. The crew managers keep the kids IDs and possessions so the kids don't run away.)
- 8) Abandoning a member of the crew that gets arrested and thrown in jail for selling without a permit.
- 9) Prohibiting and/or restricting a crew workers ability to contact friends and family while on the job.
- 10) Threatening the crew members physically or verbally. (Many of the crew managers employ "scare tactics" to get the kids to work harder. Many times this takes the form of physical violence.)
- 11) Consumer Fraud: the sales agent cannot lie about why he or she is selling a particular product (magazines, candies, cleaner products etc.). (The crew managers tell the kids to tell the consumer that they are working their way through school selling magazines or working for a charity. This is consumer fraud.)



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2765/A
GMM:wlj:jf

Friday 2/13

2
RMR

2003 BILL

DMS/E

1 AN ACT ^{Regen} to amend 21.72 (1) (a) 10., 49.857 (1) (d) 10., 73.0301 (1) (d) 3m., 103.005
 2 (10), 111.322 (2m) (a) and 111.322 (2m) (b); and to create 103.34 of the statutes;
 3 relating to: ^{the} traveling sales ~~crew~~ ^{regulation of} ~~workers~~, ^{crews} requiring the exercise of
 4 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

BILL

for the purpose of selling goods or services to consumers from house to house ^{in any} on any street or other place that is open to the public

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 conditions by a supplemental document in writing, 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

1. The names, address, and telephone number of the applicant and, if the applicant is engaged in sales activities on behalf of a principal, the names, address, and telephone number of the principal.

Note

two or together in

Crews

proof of identification & those individuals named

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7. is in compliance with all state and federal safety standards applicable to the storage, handling, and transportation of the hazardous materials.

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~~ ^{STET} 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

employed a traveling sales crew worker without a permit

BILL

\$10,000

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 paydays 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

BILL

to the storage, handling, and transportation of hazardous materials by traveling sales crew ~~workers~~ prescribed by DWD by rule.

Insert
A-1 ✓

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

an adult who has been adjudged incompetent without the permission of the person's guardian or employing a minor as a traveling sales crew worker

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 ~~minors~~ 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.

traveling sales crew

Insert
A-2 ✓

10. Discharging or discriminating against any person for opposing any practice prohibited under the bill.

Insert
A-3 ✓

Nonapplicability and nonpreemption

Finally, the bill does not apply to fund-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:

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SECTION 1. 21.72 (1) (a) 10. of the statutes is amended to read:

The sale of goods or services to consumers from house to house, on any street, or in any other place that is open to the public

BILL

1 21.72 (1) (a) 10. A certificate issued under s. 103.275, 103.34, 103.91, or 103.92.

2 SECTION 2. 49.857 (1) (d) 10. of the statutes is amended to read:

3 49.857 (1) (d) 10. A certificate issued under s. 103.275, 103.34, 103.91, or
4 103.92.

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

6 73.0301 (1) (d) 3m. A license or certificate issued by the department of
7 workforce development under s. 102.17 (1) (c), 103.275 (2) (b), 103.34 (3) (c), 103.91
8 (1), 103.92 (3), 104.07 (1) or (2), or 105.13 (1).

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

10 103.005 (10) Except as provided in ss. 103.275 (2) (bm) and (br), 103.34 (10) (b)
11 and (c), 103.91 (4) (b) and (c), 103.92 (6) and (7), 104.07 (5) and (6), and 105.13 (2) and
12 (3), orders of the department under chs. 103 to 106 shall be subject to review in the
13 manner provided in ch. 227. ^{⑮ Regulation of traveling}

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

15 ^⑮ 103.34 ~~Traveling sales crew workers~~ ^{⑮ crews} (1) DEFINITIONS: In this section:

16 (a) "Certificate of registration" means a certificate of registration issued under
17 this section authorizing a person to employ traveling sales crew ^{STET} workers.

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

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

23 2. A violation of s. 940.01, 940.02, 940.03, 940.05, 940.06, 940.07, 940.08.
24 940.09, 940.10, 940.19 (2), (4), (5), or (6), 940.21, 940.225 (1), (2), or (3), 940.23,
25 940.24, 940.25, 940.30, 940.305, 940.31, 943.02, 943.03, 943.04, 943.10, 943.30,

BILL

1 943.31, 943.32, 944.32, 944.33 (2), 944.34, 946.10, 948.02 (1) or (2), 948.025, 948.03
2 (2) or (3), 948.04, 948.05, 948.055, 948.06, 948.07, 948.075, 948.08, 948.11 (2) (a) or
3 (am), 948.12, 948.13, 948.21 (1), or 948.30 or of a substantially similar federal law
4 or law of another state.

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

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

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

15 (2) REGISTRATION REQUIRED. No person may employ, offer to employ, or
16 otherwise recruit an individual to work as a traveling sales crew worker without first
17 obtaining a certificate of registration from the department. To obtain a certificate
18 of registration, a person shall complete an application under sub. (3) (a), meet the
19 minimum requirements specified in sub. (3) (c) for issuance of a certificate of
20 registration, and pay a registration fee determined by the department by rule
21 promulgated under sub. (1). A certificate of registration is valid for 12 months
22 unless sooner suspended, restricted, or revoked and is nontransferable. A registrant
23 may renew a certificate of registration by submitting an application under sub. (3)
24 (a) and paying the registration fee not less than 30 days before the expiration date
25 of the certificate of registration.

Insert
7-8

Insert
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(13)

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SECTION 5

and, if the applicant is engaged in sales activities on behalf of a principal, the name, address, and telephone number of the principal

Together with proof of identification of those individuals which may be in the form of a birth certificate, a valid operator's license issued under Chs 343 or under a comparable law of another state, an identification card issued under Chs 343.50 or under a comparable law of another state, and a photograph of the house holder

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

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

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

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

4. 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

5. Information regarding the conviction record 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

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

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

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

If the goods to be sold are magazine subscriptions, the applicant shall provide the names, addresses, and telephone numbers of the publishers of those magazines

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1 9. A statement indicating whether the duties of the applicant's traveling sales
2 crew ~~workers~~^{STET} 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~~^{STET}
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~~^{STET}.

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

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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. ⁽¹³⁾~~(12)~~ for issuance of a certificate
12 of registration and is satisfied that the 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 ^{5 STET}~~workers~~ has been convicted of a disqualifying
25 offense within the 5 years preceding the date of the application.

BILL

employed a traveling sales crew worker in violation of sub (11)(a) or failed to keep or furnish records as required under sub (11)(b) ✓

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. (12) ✓ 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. (13) ✓; or
13 otherwise failed to comply with this section or any rule promulgated under sub. (13) ✓

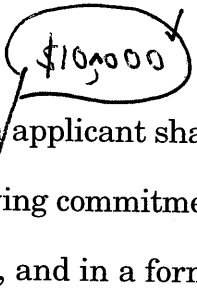
14 (e) If any change occurs in any of the information submitted to the department
15 under par. (a), the registrant shall notify the department of that change within 30
16 days after the change occurs.

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. (12) ✓

No 11 = Failure to exhibit that copy upon that request is prima facie evidence of a violation of this section

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\$10,000

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.

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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 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. Any change
24 to the terms of a disclosure statement may apply prospectively only.

BILL

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 paydays designated in advance by the employer, but in no case less often than
4 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 ^{in SET} ~~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.

BILL

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 ^S ~~workers~~ [✓] prescribed by the department by rule
7 promulgated under sub. ⁽¹³⁾ ~~(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 ^S ~~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 a
21 traveling sales crew worker to hazardous materials, the employer shall ensure that
22 the hazardous materials are stored, handled, and transported, and that the 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

BILL

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 traveling sales crew ^sworkers or to the exposure of traveling sales crew ^s
 4 workers to hazardous materials prescribed by the department by rule promulgated
 5 under sub. ⁽¹³⁾~~(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 ^sworkers.

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 hazardous materials by a traveling sales crew worker or to any
 15 other exposure of a traveling sales crew worker to hazardous materials.

16 (8) INSURANCE COVERAGE. ^g~~If the~~ ^(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. ⁽¹³⁾~~(12)~~, against liability for damages to persons and
 23 property arising out of the ownership or operation by the employer or by any
 24 employee, agent, or representative of the employer of a motor vehicle that is used to
 25 transport a traveling sales crew worker.

Insert
16-25

BILL

a person 18 years of age or over who has been adjudged incompetent under chg 890 without the permission of the person's guardian or

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 ^{is} ~~workers~~ ^{STET} 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 a.m. or after 9 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).

Inst
17-12

13 (k) ~~(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,

BILL

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

BILL

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.

Insert
19-8

~~that engages in the sale of goods or services to consumers
from home to home, on any street or in any other~~

9 ⁽¹²⁾ ~~(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. ⁽¹³⁾ ~~(12)~~, or any order issued under this section
12 or who ^{that} hinders or delays the department or any law enforcement officer in the
13 performance of their duties under this section, ⁽¹⁾ 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 (11)(a) or (c)} ~~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.

~~place that is open to the public~~ in violation of
this section, any rule promulgated under
sub. (13), or any order issued under
this section, ~~any person~~

BILL

1 (c) The department may refer violations of this section or of any rules
2 ⁽¹³⁾ 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 ⁽¹³⁾ ~~(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 ^S
10 ~~workers~~, the storage, handling, and transportation of hazardous materials by
11 traveling sales crew ^S ~~workers~~ and any other exposure of a traveling sales crew worker ^S
12 to hazardous materials, and the training of traveling sales crew ^S ~~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 ⁽¹⁴⁾ ~~(13)~~ NONAPPLICABILITY; NONPREEMPTION. (a) This section does not apply to the
17 employment of a person in a fund-raising sale for a nonprofit organization, as
18 defined in s. 103.21 (2), a public school, as defined in s. 103.21 (5), or a private school,
19 as defined in s. 103.21 (4). *conduct that is regulated under this section*

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 (8)~~. 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. *traveling sales crew activities*

25 SECTION 6. 111.322 (2m) (a) of the statutes is amended to read:
*the sale of goods or services to consumers from house to house,
on any street, or in any other place that is open to the public*

BILL

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 **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 **SECTION 8. Nonstatutory provisions.**

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, except as follows:

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

20

(END)

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2765/2ins
GMM.....

(INSERT 7-14)

(d) "Traveling sales crew" means 2 or more individuals who are employed as salespersons or in related support work, who travel together in a group, and who are absent overnight from their permanent places of residence for the purpose of selling goods or services to consumers from house to house, on any street, or in any other place that is open to the public. "Traveling sales crew" does not include 2 or more individuals who are traveling together for the purpose of participating in a trade show or convention or 2 or more immediate family members who are traveling together for the purpose of selling goods or services.

(e) "Traveling sales crew activities" means the sale of goods or services to consumers from house to house, on any street, or in any other place that is open to the public or related support work.

(f) "Traveling sales crew worker" means a member of a traveling sales crew.

(END OF INSERT)

(INSERT 16-25)

No ff

and a policy of insurance that insures the employer, in an amount prescribed by the department by rule promulgated under sub. (13)[✓], against liability for damages to persons and property arising out of any negligent act or omission of the employer or of any employee, agent, or representative of the employer. If the employer is required under s. 102.28 (2)[✓] to provide worker's compensation coverage for its employees, the employer shall also provide that coverage.

(END OF INSERT)

(INSERT 17-12)

(e) Abandon a traveling sales crew worker who is unable to work due to illness or injury or who is discharged from employment for reasons other than misconduct without providing for the return of the traveling sales crew worker to his or her permanent place of residence.

(f) Abandon a traveling sales crew worker who has been arrested and is being held in custody in connection with a violation of sub. (11) (a) 3. or a local ordinance regulating that conduct.

(g) Require a traveling sales crew worker to relinquish custody of any of his or her personal property to the employer, to any employee, agent, or representative of the employer who supervises or transports traveling sales crew workers, or to any other traveling sales crew worker of the employer.

(h) Prohibit or restrict a traveling sales crew worker from contacting any family member, friend, or other person while traveling with a traveling sales crew.

(i) Intentionally inflict or threaten to inflict any bodily harm on a traveling sales crew worker or damage to the property of a traveling sales crew worker as a means of discipline or motivation.

(j) Advise or counsel a traveling sales crew worker to make false representations to a person to whom he or she is offering goods or services concerning his or her motivation for selling those goods or services.

(END OF INSERT)

(INSERT 19-8)

(11) TRAVELING SALES CREW WORKER PERMITS. (a) 1. No individual may be employed or permitted to work as a traveling sales crew worker unless the employer of the individual first obtains from the department a traveling sales crew worker

permit for the individual as provided in this paragraph[✓] and the individual first obtains from the department an identification card as provided in this paragraph[✓]. The traveling sales crew worker permit and identification card shall be in a form prescribed by the department, which form shall include at a minimum the name and permanent home address of the traveling sales crew worker and the name, address, and phone number of his or her employer.

2. An employer of a traveling sales crew worker and all employees, agents, or representatives of that employer who supervise or transport traveling sales crew workers shall carry at all times while engaged in traveling sales crew activities a copy of the permit obtained under subd. 1.[✓] for each traveling sales crew worker of the employer and shall exhibit that copy upon the request of any deputy of the department, law enforcement officer, or person with whom the employer, employee, agent, or representative is doing business.

3. A traveling sales crew worker shall carry at all times while engaged in traveling sales crew activities the identification card obtained under subd. 1.[✓] and shall exhibit that card upon the request of any deputy of the department, law enforcement officer, or person with whom the traveling sales crew worker is doing business.

4. Failure to exhibit a copy of a permit upon request under subd. 2.[✓] or an identification card upon request under subd. 3.[✓] is prima facie evidence of a violation of this section.

(b) A traveling sales crew employer shall do all of the following:

1. Keep a copy of the permit obtained under ^{par. (a)} ~~subd.~~ 1.[✓] for each traveling sales crew worker of the employer for at least 3 years after the traveling sales crew worker

leaves the employ of the employer and allow the department to inspect those permits upon request.

2. Keep a list of the names of all cities, villages, or towns where traveling sales crew workers of the employer engaged in traveling sales crew activities within the last 3 years and allow the department to inspect that list upon request.

3. At the request of the department, provide a list of all cities, villages, or towns where the employer intends to employ traveling sales crew workers in traveling sales crew activities for the 6-month period beginning on the date of the request.

(c) Before an employer may permit a traveling sales crew worker of the employer to engage in traveling sales crew activities in any city, village, or town, the employer shall obtain from the clerk of the city, village, or town a stamp or endorsement on the permit obtained under par. (a) 1. of the traveling sales crew worker. When an employer obtains that stamp or endorsement, the employer shall provide notice that traveling sales crew workers of the employer will be engaging in traveling sales crew activities in that city, village, or town to the following:

1. The local police department, if the city, village, or town has a police department.

2. To the sheriff of the county where the city, village, or town is located, if the city, village, or town does not have a police department.

(d) Law enforcement officers of counties, cities, village^s, and towns shall assist the department in enforcing this section by questioning individuals seen engaging in traveling sales crew activities and reporting to the department all cases of

individuals apparently engaging in traveling sales crew activities in violation of this section.

(END OF INSERT)

(INSERT A-1)

✓ 4. Have in force a motor vehicle liability insurance policy and an insurance policy covering the negligent acts or omissions of the employer and the employer's employees, agents, and representatives and, if required to do so under the worker's compensation law, provide worker's compensation coverage.

(END OF INSERT)

(INSERT A-2)

5. Abandoning a traveling sales crew worker who is unable to work due to illness or injury or who is discharged from employment for reasons other than misconduct without providing for the return of the traveling sales crew worker to his or her permanent place of residence.

6. Abandoning a traveling sales crew worker who has been arrested and is being held in custody in connection with a violation of the bill or a local ordinance regulating the conduct regulated by the bill.

7. Requiring a traveling sales crew worker to relinquish custody of any of his or her personal property to the employer, to any employee, agent, or representative of the employer who supervises or transports traveling sales crew workers, or to any other traveling sales crew worker of the employer.

8. Prohibiting or restricting a traveling sales crew worker from contacting any family member, friend, or other person while traveling with the traveling sales crew.

9. Intentionally inflicting or threatening to inflict any bodily harm on a traveling sales crew worker or damage to the property of a traveling sales crew worker as a means of discipline or motivation.

10. Advising or counseling a traveling sales crew worker to make false representations to a person to whom he or she is offering goods or services concerning his or her motivation for selling those goods or services.

(END OF INSERT)

(INSERT A-3)

Traveling sales crew worker permits

The bill prohibits an individual from being employed or permitted to work as a traveling sales crew worker unless the employer of the individual first obtains from DWD a traveling sales crew worker permit (permit) for the individual and the

individual first obtains from DWD an identification card. The bill requires the permit and identification card to include at a minimum the name and permanent home address of the traveling sales crew worker and the name, address, and phone number of his or her employer.

The bill also requires an employer of a traveling sales crew worker and all employees, agents, or representatives of that employer who supervise or transport traveling sales crew ^{STET}workers to carry at all times while engaged in traveling sales crew activities a copy of the permit obtained for each traveling sales crew worker of the employer and a traveling sales crew worker to carry at all times while engaged in traveling sales crew activities a copy of the identification card.

In addition, the bill requires a traveling sales crew employer to keep a copy of the permit for each traveling sales crew worker of the employer for at least ^{three} 3 years after the traveling sales crew worker leaves the employ of the employer, ^{to} keep a list of the names of all cities, villages, or towns where traveling sales crew ^{STET}workers of the employer engaged in traveling sales crew activities within the last ^{three} 3 years, and at the request of DWD, ^{to} provide a list of all cities, villages, or towns where the employer intends to employ traveling sales crew ^{STET}workers in traveling sales crew activities for the six-month period beginning on the date of the request.

Under the bill, before an employer may permit a traveling sales crew worker of the employer to engage in traveling sales crew activities in any city, village, or town, the employer shall obtain from the clerk of the city, village, or town a stamp or endorsement on the permit of the traveling sales crew worker. The bill requires an employer who obtains that stamp or endorsement to provide notice to local law enforcement authorities that traveling sales crew ^{STET}workers of the employer will be engaging in traveling sales crew activities in that city, village, or town.

Finally, ^{also} the bill requires law enforcement officers of counties, cities, village ^S, and towns to assist DWD in enforcing the bill by questioning individuals seen engaging in traveling sales crew activities and reporting to DWD all cases of individuals apparently engaging in traveling sales crew activities in violation of the bill.

(END OF INSERT)

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

LRB-2765/2dn

GMM...../.....

Wlj

Senator Erpenbach:

The redraft does not provide in so many words that a municipality may retain fines imposed on traveling sales crew workers who engage in sales activities in violation of the bill. The means by which a municipality may collect and retain those fines would be for the municipality to enact a municipal ordinance prohibiting that conduct and prosecuting those violations in municipal court.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

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

LRB-2765/2dn
GMM:wj:rs

February 13, 2004

Senator Erpenbach:

The redraft does not provide in so many words that a municipality may retain fines imposed on traveling sales crew workers who engage in sales activities in violation of the bill. The means by which a municipality may collect and retain those fines would be for the municipality to enact a municipal ordinance prohibiting that conduct and prosecuting those violations in municipal court.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.state.wi.us

Northrop, Lori

From: Templeton, Carrie
Sent: Wednesday, February 18, 2004 12:46 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2765/2 Topic: REgulation of travelling sales crews

It has been requested by <Templeton, Carrie> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-2765/2 Topic: REgulation of travelling sales crews

Barman, Mike

From: Malaise, Gordon
Sent: Monday, March 08, 2004 12:15 PM
To: Barman, Mike
Subject: Technical Memo for SB 475

Mike:

It's OK to send the technical amendment. Indeed, I am working on another amendment in which I can fix up the language noted in the technical memo.

Gordon



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

March 8, 2004

MEMORANDUM

To: Senator Erpenbach

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

Subject: Technical Memorandum to **SB-475** (LRB 03-2765/2)

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

InterOffice Memo

Department of Workforce Development

Date: February 23, 2004

File Ref: technical memo on sb 475

To: Richard, Joanna

From: Bob Anderson

Subject: **Technical Memo on SB 475**

There appear to be two related errors in SB 475. The first error concerns the analysis by the Legislative Fiscal Bureau and is on page five, under the heading "Prohibited Practices" in point one. I have underlined what I believe is a missing word here.

1. "Employing a minor as a traveling sales crew worker or employing an adult who has been adjudged incompetent as a traveling sales crew worker without the permission of the person's guardian."

The second error refers to the actual proposed statute language in §103.34 (9)(a). Without trying to correct the proposed I believe the correct language should read:

"Employ or permit to work as a traveling sales crew member a person under 18 years of age or a person 18 years of age or older who has been adjudged incompetent under ch. 880 without first obtaining the permission of the person's guardian."