

2003 DRAFTING REQUEST

Senate Amendment (SA-SB508)

Received: 03/02/2004

Received By: gmalaise

Wanted: 03/03/2004

Identical to LRB:

For: Tim Carpenter (608) 266-8535

By/Representing: Stuart Ewy

This file may be shown to any legislator: NO

Drafter: gmalaise

May Contact:

Addl. Drafters:

Subject: **Employ Priv - minimum wage**

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Definition of "companionship services"

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 03/02/2004	wjackson 03/02/2004		_____			
/1			jfrantze 03/02/2004	_____	mbarman 03/02/2004	mbarman 03/02/2004	

FE Sent For:

<END>

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1?	gmalaise	1 Wlj 3/2	J 3/2	J/Wlj 3/2			

FE Sent For:

<END>

Malaise, Gordon

From: Sen.Carpenter
Sent: Tuesday, March 02, 2004 5:00 PM
To: Malaise, Gordon
Cc: Sen.Carpenter
Subject: Amendment to SB 508

Hi Gordon --

As we discussed, Tim would like an amendment drafted to SB 508 LRB 4384/1. Tim would like the following definition of companionship used, and a reporting requirement added.

Definition of companionship

1) ~~The term~~ "companionship services" shall mean ^{that} those services which provide fellowship and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Fellowship and protection are a companion's sole core duties and a companion must spend at least 80% of his or her weekly hours worked exclusively providing fellowship or protection. Protection generally involves being present in the home of the individual to ensure the safety and well being of that individual. A companion may also perform duties that provide care, which generally involves providing intimate personal care services to the individual, such as feeding the person or assisting the person with bathing, dressing, grooming or toileting. A companion also may perform household work but only insofar as it is directly related to the care of the individual, such as preparing the individual's meal, making the individual's bed, washing the individual's clothes and other similar services for the person. However, all intimate personal care services and household work directly ^{trained} related to the individual must be incidental, i.e., may not exceed 20 percent of the total weekly hours worked. ~~The term~~ "companionship services" ~~does~~ not include services relating to the care and protection of the individual ^{and} which require and are performed by ^{trained} personnel including, but not limited to, catheter and ostomy care, injections, and tube feeding, regardless of whether the caregiver is a registered or practical nurse. While such trained personnel do not qualify as companions, this fact does not remove them from the category of covered domestic service employees when employed in or about a private household.

Reporting requirement

(a) The Department of Workforce Development ^{shall} will enforce this definition of the companionship exemption by promulgating reporting requirements that require agencies that employ individuals to provide companionship services that meet the definition in (1). These reporting requirements will include notification of the state by the employer within 30 days of employment of any employee who is providing any amount of companionship services. Such a reporting system will also include a weekly time log that provides a detailed accounting of individual workers tasks verified by the consumer of companionship services, the employer, and a third-party which is not the agency or the employee but may be an agent of the state of Wisconsin. ~~Furthermore, the State of Wisconsin or its agent may conduct periodic compliance audits of the agencies that claim the companionship exemption for any of its employees.~~

Please let me know if you have any questions or comments regarding this request.

Thanks!!

Regards,

**G. Stuart Ewy
Chief of Staff**

**Office Of Senator Tim Carpenter
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Room 126S
PO BOX 7882
Madison, WI 53707-7882**

(608) 266-8535



State of Wisconsin
2003 - 2004 LEGISLATURE

Wed 3/3 8:00 AM

LRBa2513/7

GMM.../.....

Wlj

1

SENATE AMENDMENT,
TO 2003 SENATE BILL 508

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 1, line 3: after "services" insert "and granting rule-making authority".

3 ✓ 2. Page 2, line 1: delete lines 1 to 10.

4 ✓ 3. Page 3, line 1: delete lines 1 and 2.

5 ✓ 4. Page 3, line 7: after "services" insert "as defined in s. 103.027 (1) (b), that
6 meet the requirements specified in s. 103.027 (2)".

7 ✓ 5. Page 3, line 8: delete lines 8 to 11 and substitute:

8 "SECTION 4m. 103.027 of the statutes is created to read:

9 **103.027 Hours of labor; companionship services.** (1) In this section:

10 (a) "Care" means intimate personal care services provided to a person who,
11 because of advanced age or physical or mental infirmity, cannot care for his or her
12 own needs, such ^s as feeding the person or assisting the person with bathing, dressing,
13 grooming, or toileting.

1 (b) "Companionship services" means services that provide fellowship and
2 protection for a person who, because of advanced age or physical or mental infirmity,
3 cannot care for his or her own needs. "Companionship services" do not include
4 services relating to the care and protection of a person who, because of age or physical
5 or mental infirmity, cannot care for his or her own needs that require and are
6 performed by a trained individual, regardless of whether the trained individual is a
7 registered nurse or a licensed practical nurse, such as catheter and ostomy care,
8 injections, and tube feeding.

9 (c) "Household work" means household work that is directly related to the care
10 of a person who, because of advanced age or physical or mental infirmity, cannot care
11 for his or her own needs, such as preparing the person's meals, making the person's
12 bed, washing the person's clothes, and other similar services that are directly related
13 to the care of the person.

14 (d) "Protection" means being present in the home of a person who, because of
15 advanced age or physical or mental infirmity, cannot care for his or her own needs
16 to ensure the safety and well being of the person.

17 (2) An employer is not required to pay overtime compensation, as defined in
18 s. 103.025 (1) (c), to an individual engaged in providing companionship services if all
19 of the following conditions are met:

20 (a) Fellowship and protection are the sole core duties of the individual and the
21 individual spends not less than 80 percent of his or her total weekly hours worked
22 exclusively providing fellowship and protection.

23 (b) The individual spends no more than 20 percent of his or her total weekly
24 hours worked providing care and household work.

1 (3) The department shall promulgate rules requiring employers that employ
 2 individuals to provide companionship services to report information to the
 3 department as necessary for the department to enforce this section and may conduct
 4 periodic compliance audits of those employers. Those rules shall require an
 5 employer that hires an individual to provide any amount of companionship services
 6 to notify the department within 30 days after the individual is hired and shall require
 7 an employer that employs an individual to provide companionship services to keep
 8 a weekly time log that provides a detailed accounting of the individual's tasks as
 9 verified by the person for whom the companionship services are provided, the
 10 employer, and a ^{3rd} ~~third~~ party that may not be the individual that provides the
 11 companionship services, but that may be a deputy of the department.”
 12

(END)

Page 3, line 14: delete \surd 103001 (1g) \surd
 and substitute \surd 1030027 (1)(4) ^b \surd \ominus