



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2903/2
GMM:jld:jf

**ASSEMBLY AMENDMENT 1,
TO 2005 SENATE BILL 251**

April 18, 2006 – Offered by COMMITTEE ON SMALL BUSINESS.

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

2 **1.** Page 1, line 3: after “crews” insert “and independent temporary resident
3 direct sellers”.

4 **2.** Page 7, line 2: after that line insert:

5 “SECTION 1g. 21.72 (1) (a) 10m. of the statutes is created to read:

6 21.72 (1) (a) 10m. A permit issued under s. 103.345.”.

7 **3.** Page 7, line 5: after that line insert:

8 “SECTION 2g. 60.33 (8p) of the statutes is created to read:

9 60.33 (8p) TRAVELING SALES CREW WORKER PERMITS. Stamp or endorse traveling
10 sales crew worker permits at the request of an employer under s. 103.34 (11) (c).

11 SECTION 2j. 60.33 (8r) of the statutes is created to read:

1 60.33 **(8r)** INDEPENDENT TEMPORARY RESIDENT DIRECT SELLER PERMITS. Stamp or
2 endorse independent temporary resident direct seller permits at the request of a
3 permit holder under s. 103.345 (2) (g).

4 **SECTION 2m.** 61.25 (6p) of the statutes is created to read:

5 61.25 **(6p)** To stamp or endorse traveling sales crew worker permits at the
6 request of an employer under s. 103.34 (11) (c).

7 **SECTION 2p.** 61.25 (6r) of the statutes is created to read:

8 61.25 **(6r)** To stamp or endorse independent temporary resident direct seller
9 permits at the request of a permit holder under s. 103.345 (2) (g).

10 **SECTION 2r.** 62.09 (11) (L) of the statutes is created to read:

11 62.09 **(11)** (L) The clerk shall stamp or endorse traveling sales crew worker
12 permits at the request of an employer under s. 103.34 (11) (c).

13 **SECTION 2t.** 62.09 (11) (m) of the statutes is created to read:

14 62.09 **(11)** (m) The clerk shall stamp or endorse independent temporary
15 resident direct seller permits at the request of a permit holder under s. 103.345 (2)
16 (g).”.

17 **4.** Page 9, line 7: after “convention” insert “, 2 or more individuals who are
18 traveling together for the purpose of engaging in independent temporary resident
19 direct seller activities, as defined in s. 103.345 (1) (d),”.

20 **5.** Page 9, line 9: after “the sale” insert “by traveling sales crew workers”.

21 **6.** Page 16, line 18: after that line insert:

22 “(c) At the time an individual is provided with a disclosure statement under par.
23 (a), the employer shall also provide the individual with a copy of the laws and rules
24 of this state relating to the sale of goods or services to consumers from house to house,

1 on any street, or in any other place that is open to the public. If the individual accepts
2 the offer of employment, the individual shall sign a statement acknowledging receipt
3 of the copy of those laws and rules and the employer shall file with the department
4 of agriculture, trade and consumer protection the name of the individual and a copy
5 of the statement signed by the individual.”.

6 **7.** Page 26, line 18: after that line insert:

7 “**SECTION 5g.** 103.345 of the statutes is created to read:

8 **103.345 Regulation of independent temporary resident direct sellers.**

9 **(1) DEFINITIONS.** In this section:

10 (a) “Financial institution” means a bank, savings bank, savings and loan
11 association, or credit union that is authorized to do business under state or federal
12 laws relating to financial institutions.

13 (b) “Independent temporary resident direct seller” means an individual 18
14 years of age or over who works as an independent contractor, who is absent overnight
15 from his or her permanent place of residence for the purpose of engaging in
16 independent temporary resident direct seller activities, and who has established a
17 temporary residence with the intent of residing in that residence for not less than 31
18 days.

19 (c) “Independent temporary resident direct seller activities” means the sale by
20 an independent temporary resident direct seller of goods or services to consumers
21 from house to house, on any street, or in any other place that is open to the public.

22 (d) “Municipality” means a county, city, village, or town.

23 (e) “Permit” means a permit issued under this section authorizing an
24 individual to work as an independent temporary resident direct seller.

1 (f) “Principal” means a person that contracts with an individual to work as an
2 independent temporary resident direct seller.

3 (g) “Solicitor’s license” means a license, permit, or registration issued under a
4 municipal ordinance that requires an individual to obtain a license, permit, or
5 registration before the individual may sell goods or services to consumers house to
6 house, on any street, or in any other place that is open to the public in the
7 municipality.

8 **(2) PERMIT REQUIRED.** (a) No individual may work as an independent temporary
9 resident direct seller unless the individual first obtains a permit as provided in this
10 subsection. To obtain a permit, an individual shall complete an application under
11 par. (b) and pay a permit fee determined by the department by rule promulgated
12 under sub. (5) (a).

13 (b) An individual who intends to engage in independent temporary resident
14 direct seller activities shall file an application for a permit with a municipality in
15 which the individual intends to engage in those activities. An application under this
16 paragraph shall contain the name, date of birth, permanent home address, and
17 temporary residence address, as shown in the lodging agreement under subd. 2., of
18 the applicant, the name of the applicant’s principal, the address and phone number
19 of the principal place of business of that principal, and a statement acknowledging
20 that the applicant understands that issuance of a permit does not exempt the
21 applicant from compliance with any municipal ordinance that requires the applicant
22 to obtain a solicitor’s license. An application under this paragraph shall also be
23 accompanied by all of the following:

24 1. A copy of a written lodging agreement signed by the applicant and the person
25 providing the lodging, showing the address of the temporary residence of the

1 applicant and the dates on which the agreement begins and ends, which dates may
2 not be less than 31 days apart.

3 2. Proof that the applicant has established an account with an office of a
4 financial institution that is located not more than 30 miles from the applicant's
5 temporary residence.

6 3. Proof of the applicant's age and identity in the form of a valid operator's
7 license issued under ch. 343 or under the laws of any other state, an identification
8 card issued under s. 343.50 or under a substantially similar law of another state, a
9 military identification card, a valid passport, alien registration card, or any other
10 identification document issued by a federal, state, local, or foreign governmental
11 agency showing the name, address, signature, date of birth, and photograph of the
12 applicant.

13 (c) On receipt of an application under par. (b) and payment of the permit fee
14 under par. (a), the municipality shall determine whether the applicant meets the
15 requirements under this section for issuance of a permit. If the municipality is
16 satisfied that the applicant is 18 years of age or over and has established a temporary
17 residence and account with a financial institution as required under par. (b), the
18 municipality shall immediately issue a permit to the applicant. The permit shall be
19 in a form prescribed by the department, which form shall include at a minimum the
20 name, permanent home address, and temporary residence address of the permit
21 holder, the name of the permit holder's principal, and the address and phone number
22 of the principal place of business of that principal. A permit issued under this
23 paragraph is valid for 4 months, unless sooner suspended, restricted, or revoked
24 under par. (d), and is valid in every municipality in this state, but the issuance of such

1 a permit does not exempt the permit holder from compliance with any municipal
2 ordinance that requires the permit holder to obtain a solicitor's license.

3 (d) A municipality may suspend, revoke, restrict, or refuse to renew a permit
4 if the municipality determines that any of the following applies:

5 1. The permit holder has made a material misrepresentation or false statement
6 in the application for the permit.

7 2. The permit holder has failed to notify the municipality of any change in the
8 information submitted in the application as required under par. (e).

9 3. The permit holder has failed to maintain a temporary residence as required
10 under par. (b) 1. or an account with a financial institution as required under par. (b)
11 2., has had a solicitor's license suspended, revoked, restricted, or nonrenewed, has
12 failed to pay a penalty imposed under sub. (4), or has otherwise failed to comply with
13 this section or any rule promulgated under sub. (5).

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

17 (f) An independent temporary resident direct seller shall carry at all times
18 while engaged in independent temporary resident direct seller activities a copy of the
19 permit obtained under par. (c) and shall exhibit that copy upon the request of any
20 deputy of the department, law enforcement officer, or person with whom the
21 independent temporary resident direct seller is doing business. Failure to exhibit
22 a copy of a permit upon request under this paragraph is prima facie evidence of a
23 violation of this section.

24 (g) Before an independent temporary resident direct seller may engage in any
25 independent temporary resident direct seller activities in any city, village, or town,

1 the independent temporary resident direct seller shall obtain from the clerk of the
2 city, village, or town a stamp or endorsement on his or her permit obtained under par.
3 (c). When an independent temporary resident direct seller obtains that stamp or
4 endorsement, he or she shall provide notice that he or she will be engaging in
5 independent temporary resident direct seller activities in that city, village, or town
6 to the following:

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

9 2. The sheriff of the county in which the city, village, or town is located, if the
10 city, village, or town does not have a police department.

11 (h) Law enforcement officers of municipalities shall assist the department in
12 enforcing this section by questioning individuals seen engaging in independent
13 temporary resident direct seller activities and reporting to the department all cases
14 of individuals apparently engaged in those activities in violation of this section.

15 **(3) DUTIES OF PRINCIPAL.** (a) Before an individual begins performing
16 independent temporary resident direct seller activities in this state, the individual's
17 principal shall provide the individual with a copy of the laws and rules of this state
18 relating to the sale of goods or services to consumers from house to house, on any
19 street, or in any other place that is open to the public. On receipt of the copy of those
20 laws and rules, the individual shall sign a statement acknowledging receipt of that
21 copy and the principal shall file with the department of agriculture, trade and
22 consumer protection the name of the individual and a copy of the statement signed
23 by the individual.

24 (b) A principal that is not a resident of this state or is not authorized to do
25 business in this state shall designate an agent upon whom service of process may be

1 made in this state. The agent shall be a resident of this state or a corporation
2 authorized to do business in this state. The designation shall be in writing and shall
3 be filed with the department of financial institutions. If no designation is made and
4 filed or if process cannot be served in this state upon the designated agent after
5 reasonable effort, process may be served upon the department of financial
6 institutions.

7 (4) PENALTIES; ENFORCEMENT. (a) Any person that engages in independent
8 temporary resident direct seller activities in violation of this section, any rule
9 promulgated under sub. (5), or any order issued under this section, that contracts or
10 offers to contract with or otherwise recruits an individual to work as an independent
11 temporary resident direct seller in violation of this section, any rule promulgated
12 under sub. (5), or any order issued under this section, or that hinders or delays the
13 department or any law enforcement officer in the performance of their duties under
14 this section, may be required to forfeit not less than \$25 nor more than \$1,000 for
15 each day of a first offense and, for a 2nd or subsequent offense within 5 years, as
16 measured from the dates on which the violations initially occurred, may be fined not
17 less than \$250 nor more than \$5,000 for each day of the 2nd or subsequent offense
18 or imprisoned not more than 30 days or both.

19 (b) The department may refer violations of this section or of any rules
20 promulgated under sub. (5) for prosecution by the department of justice or the
21 district attorney of the county in which the violation occurred.

22 (5) DUTIES OF DEPARTMENT. The department shall prescribe forms for
23 applications under sub. (2) (b) and permits issued under sub. (2) (c) and shall make
24 those forms available to applicants and municipalities on the department's Internet

1 site. The department shall also promulgate rules to implement this section. Those
2 rules shall include all of the following:

3 (a) A fee for obtaining a permit. The department shall determine the fee based
4 on the reasonable cost of issuing a permit.

5 (b) Minimum requirements for the issuance of permits.

6 **(6) NONAPPLICABILITY; NONPREEMPTION.** (a) This section does not apply to an
7 individual who is engaged in a fund-raising sale for a nonprofit organization, as
8 defined in s. 103.21 (2), a public school, as defined in s. 103.21 (5), or a private school,
9 as defined in s. 103.21 (4).

10 (b) This section does not preempt a municipality from enacting a local
11 ordinance regulating independent temporary resident direct seller activities. To the
12 extent that a local ordinance regulates conduct that is regulated under this section,
13 the local ordinance shall be at least as strict as the regulation of that conduct under
14 this section.”.

15 **8.** Page 27, line 7: delete “section 103.34 (13)” and substitute “sections 103.34
16 (13) and 103.345 (5)”.

17 **9.** Page 27, line 15: delete “The treatment of”.

18 **(END)**