

2007 DRAFTING REQUEST

Senate Amendment (SA-SB80)

Received: 04/17/2007

Received By: **gmalaise**

Wanted: **Today**

Identical to LRB:

For: **Glenn Grothman (608) 266-7513**

By/Representing: **Jim Emerson**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - health and safety**

Extra Copies: **CTS**

Submit via email: **YES**

Requester's email: **Sen.Grothman@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Travelling sales crew workers; exception for and registration of independent direct sellers

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 04/17/2007	wjackson 04/17/2007		_____			
/1			jfrantze 04/17/2007	_____	lparisi 04/17/2007	lparisi 04/17/2007	

FE Sent For:

<END>

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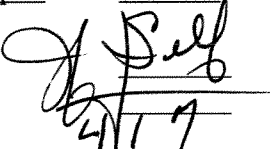
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/?	gmalaise	1 WLJ 4/17					

FE Sent For:

<END>

Malaise, Gordon

From: Emerson, James
Sent: Monday, April 16, 2007 3:08 PM
To: Malaise, Gordon

Attachments: WI SB80 Amendment SW 041607.doc



WI SB80
Amendment SW 041607.

Jim Emerson
Senator Grothman's Office
266-7513

**PROPOSED AMENDATORY LANGUAGE TO
WISCONSIN SB 80**

"Excepted from the foregoing definition of a "traveling sales crew" are individuals engaged in lawful door-to-door direct selling within any locality of this state who maintain permanent residency in the state or represent products or services distributed by business entities who maintain a permanent fixed retail location, OR who meet at least four of the following five criteria in advance of commencing door-to-door direct selling:

- 1) The individual is a sole proprietor or independent contractor as recognized by IRC Sec. 3508(b) and is in good standing with applicable tax reporting agencies; and/or
- 2) The individual controls or is otherwise individually responsible for cash or checks received from the individual's customers for merchandise or services sold; and/or
- 3) The individual possesses title to merchandise sold and delivered to the individual's customers; and/or
- 4) The individual posts with the DATCP a valid fidelity insurance bond in the amount no greater \$10,000 in his or her name, in advance of being engaged in door-to-door direct selling in any locality, to insure the direct seller's faithful compliance with all applicable laws and regulations; and/or
- 5) The individual sells only products or services provided by business entities which maintain jurisdictional nexus within the state.

Notwithstanding the foregoing exception, direct sellers exempted from the definition of a "traveling sales crew" will, nonetheless, be required to:

- a) Receive, acknowledge as having received, and strictly comply with the Wisconsin statutes relative to consumer protection and public safety to the extent the applicability thereof does not obviate the effect of the exception set forth above; and
- b) Register with the Department of Agriculture, Trade, and Consumer Protection in advance of door-to-door selling in any locality within the state, their:
 - i) Name,
 - ii) Local address,
 - iii) Permanent address,
 - iv) Phone number,
 - v) Social Security number, and
 - vi) Description of products or services to be sold.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa0316/9
GMM.....

WLj

Today!
4/17

SENATE AMENDMENT,
TO 2007 SENATE BILL 80

Lps:
Please
print w/
line #s.

At the locations indicated, amend the bill as follows:

✓ 1. Page 1, line 3: after "crews" insert "and independent direct sellers".

✓ 2. Page 7, line 2: after that line insert:

→ ~~CS~~ ~~AM~~ ~~10m~~
(No CS) + "SECTION ~~100~~ 21.72 (1) (a) 10m. of the statutes is created to read:
21.72 (1) (a) 10m. A registration issued under s. 100.55 (2) (d)."

✓ 3. Page 7, line 9: after that line insert:

(No CS) "SECTION ~~3M~~ 100.55 of the statutes is created to read:

100.55 Regulation of independent direct sellers. (1) DEFINITIONS. In this section:

(a) "Independent direct seller" means an individual engaged in independent direct seller activities who is a permanent resident of this state, who sells goods or services that are distributed by a business entity that maintains a permanent fixed retail location, or who meets any 4 of the following conditions:

1. The individual is a direct seller, as defined in 26 USC 3508 (b) (2), and is in good standing with all applicable federal, state, and local tax collecting agencies.

2. The individual controls or is otherwise personally responsible for the safekeeping of any moneys received from the individual's customers for any goods or services sold to those customers.

3. The individual has title to the goods sold and delivered to the individual's customers.

4. The individual establishes proof of financial responsibility as provided under sub. (2) (c).[✓]

5. The individual sells only goods or services that are provided by business entities that are subject to the jurisdiction of the courts of this state.

(b) "Independent direct seller activities" means the sale by an independent direct seller of goods or services to consumers from house to house, on any street, or in any other place that is open to the public.

(c) "Registration" means a registration issued under this section authorizing an individual to work as an independent direct seller.

(2) REGISTRATION REQUIRED. (a) No individual may work as an independent direct seller unless the individual first registers with the department as provided under par. (b), establishes proof of financial responsibility if required under par. (c),[✓] and receives, and acknowledges receipt of, a copy of the laws and rules of this state relating to consumer protection and public safety that are applicable to independent direct seller activities, as specified in par. (d).[✓]

(b) An individual who intends to engage in independent direct seller activities shall register with the department by doing all of the following:

1. Providing on a form prescribed by the department the individual's name, social security number, permanent home address, telephone number, and, if intending to reside in a temporary residence while engaged in independent direct seller activities, the temporary residence address. ^(of)

2. Establishing to the satisfaction ^{of} the department that the individual meets the definition of an independent direct seller. *

3. Paying a registration fee determined by the department based on the reasonable cost of registering the individual under this subsection.

(c) An individual who is required to establish proof of financial responsibility in order to meet the definition of an independent direct seller shall prove the individual's ability to pay any damages, liabilities, penalties, costs, and other expenses arising out of the individual's independent direct seller activities by maintaining a bond, certificate of deposit, escrow account, or irrevocable letter of credit in an amount approved by the department, but not more than \$10,000, and in a form approved by the department. The bond, certificate of deposit, escrow account, or irrevocable letter of credit shall be established in favor of or be made payable to the department, for the benefit of the state and any customer of the individual who may incur damages arising out of the individual's independent direct seller activities. The individual shall file with the department any agreement, instrument, or other document necessary to enforce the bond, certificate of deposit, escrow account, or irrevocable letter of credit against the individual. *

(d) If the department is satisfied that an individual who has completed a registration form under par. (b) 1. and paid the registration fee under par. (b) 3. meets the definition of an independent direct seller as required under par. (b) 2., the department shall register the individual as an independent direct seller and provide

the individual with a copy of the laws and rules of this state relating to consumer protection and public safety that are applicable to independent direct seller activities, as determined by the department. On receipt of the copy of those laws and rules, the individual shall sign a statement acknowledging receipt of that copy and file with the department a copy of that signed statement.

(3) NONPREEMPTION. An individual who is registered under sub. (2) (d) is authorized to engage in independent direct seller activities in any municipality in this state, but is not exempt from compliance with any municipal ordinance that requires an individual to obtain a license, permit, or registration before the individual may sell goods or services to consumers from house to house, on any street, or in any other place that is open to the public or that prohibits 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.”

4. Page 9, line 7: after “convention” insert “, 2 or more individuals who are traveling together for the purpose of engaging in independent direct seller activities, as defined in s. 100.55 (1) (b),”.

5. Page 9, line 9: after “the sale” insert “by a traveling sales crew worker”.

6. Page 27, line 15: delete “The treatment of”.

(END)