

## 2007 DRAFTING REQUEST

### Assembly Substitute Amendment (ASA-SB80)

Received: **01/05/2008**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Terry Moulton (608) 266-9172**

By/Representing: **Matt Seaholm**

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

Drafter: **gmalaise**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Moulton@legis.wisconsin.gov**

Carbon copy (CC:) to:

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#### Pre Topic:

No specific pre topic given

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#### Topic:

Regulation of traveling sales crews

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#### Instructions:

See Attached

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#### 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 01/05/2008	wjackson 01/12/2008		_____			
/1			pgreensl 01/14/2008	_____	cduerst 01/14/2008	cduerst 01/14/2008	
/2	gmalaise 01/24/2008	wjackson 01/28/2008	rschluet 01/29/2008	_____	cduerst 01/29/2008	cduerst 01/29/2008	
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	02/15/2008	02/18/2008	02/18/2008	_____	02/18/2008	02/18/2008	

FE Sent For:

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gmalaise

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FE Sent For:

<END>

**Malaise, Gordon**

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**From:** Seaholm, Matthew  
**Sent:** Thursday, December 20, 2007 11:27 AM  
**To:** Malaise, Gordon  
**Subject:** FW: Conversation with Representative Terry Moulton  
**Attachments:** draft traveling sales model bill 12-12-07.doc; Traveling Sales Crew White Paper 071217.doc

Hi Gordon,

Attached are two documents from the Direct Sellers Association re: the Traveling Sales Crew Bill, Senate Bill 80. Would you be able to put their "model bill" into a substitute amendment to Senate Bill 80 for us? Let me know if you have any questions or comments.

Thanks,

***Matt***

*Matt Seaholm  
Office of Rep. Terry Moulton  
Wisconsin's 68th Assembly District  
(608) 266-9172*



**DIRECT SELLING ASSOCIATION**  
1667 K Street, NW, Suite 1100, Washington, DC 20006-1660  
202/452-8866 • Fax 202/452-9010  
www.dsa.org

## **Direct Selling Association Model Traveling Sales Crew Bill**

The Direct Selling Association (DSA) and its members propose a model traveling sales crew bill to address the serious problems that traveling sales crews pose to both their recruits as well as Wisconsin residents.

### **PURPOSE:**

The purpose of DSA's model traveling sales crew bill is to:

- Protect the safety of traveling sales crew members and Wisconsin residents.
- Give law enforcement the tools needed to identify traveling sales crews.
- Require companies using traveling sales crews as well as the crew members themselves to register with the state before conducting business.
- Require crews and their operators to comply with specific provisions aimed at enhancing public safety.

### **DEFINITIONS AND REGISTRATION REQUIREMENTS:**

- Defines traveling sales crews
- Contains rigorous registration requirements.
- Allows the Department of Labor to refuse and revoke traveling sales crew operating certificates based on conviction of a felony or misdemeanor.

### **OBLIGATIONS OPERATORS TO TRAVELING SALES CREWS OPERATORS:**

The bill requires that traveling sales crew operators:

- Provide written disclosures on things such as payments, type of work required, transportation, housing and other benefits.
- Make, keep and preserve records related to their operation of traveling sales crews.
- Pay traveling sales crews in a prompt manner.
- Provide safe transportation and housing to traveling sales crew members.

### **ENFORCEMENT PROVISIONS:**

The bill provides stiff penalties for violations including substantial fines and imprisonment.

### **CONTACT INFORMATION:**

Dean A. Heyl, Attorney and Manager of Government Relations  
Direct Selling Association  
1667 K Street, NW  
Suite 1100  
Washington, DC 20006  
Phone: (202) 416-6420      Cell: (202) 236-5985  
Fax: (202) 452-8866      E-mail: Dhey1@dsa.org

The Direct Selling Association (DSA) is the national trade association representing more than 200 companies that sell their products and services by personal presentation and demonstration, primarily in the home.



**LEGISLATIVE INTENT.** The Legislature finds that it is necessary, and it intends to enhance the public safety of residents of this state, including both consumers and young people seeking personal earnings, by requiring companies operating traveling sales crews as well as the individuals working as members of traveling sales crews, to be registered in this state, but it does not intend to regulate independent house-to-house selling in this state which is not performed in the context of traveling sales crews.

**DRAFT - December 4, 2007**

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**A BILL**

**SECTION 1. SHORT TITLE.**

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

**TITLE I--PROTECTION OF TRAVELING SALES CREWS**

**SEC. 201. PURPOSE.**

The purpose of this Act is:

- (1) To protect the safety of traveling sales crews members;
- (2) To protect the safety of the residents and consumers of this state;
- (3) To require companies using traveling sales crews to register under this Act;  
and
- (4) To require individuals working in this state as members of traveling sales crews to register under this Act.

**SEC. 202. DEFINITIONS.**

In this Act:

- (1) **CERTIFICATE OF REGISTRATION-** The term "certificate of registration" means a certificate issued by the Wisconsin Department of Workforce Development pursuant to Section 203.
- (2) **DEPARTMENT –** The term "Department" means the state Department of Workforce Development.
- (3) **GOODS-** The term "goods" means wares, products, commodities, merchandise, services or articles or subjects of interstate commerce of any type, or any part or ingredient thereof including magazine subscriptions.

- (4) PERSON- The term "person" means any individual, sole proprietor, entity, partnership, association, joint stock company, firm, limited liability corporation, trust, cooperative, or corporation.
- (5) SALE, SELL- The terms "sale" or "sell" include any sale, exchange, contract, consignment, shipment, or other disposition of goods or the attempt to obtain information to make a subsequent sale, exchange, contract, consignment, shipment or other disposition of goods, including the taking of an order for future delivery.
- (6) TRAVELING SALES CREW –
- (a) Except as provided in this subparagraph, the term "traveling sales crew" means more than two persons (traveling sales crew members), not including immediate family members, who do all the following:
- (i) Work as salespersons or in related support work, including driving, in selling goods to consumers from house to house on any street;
- (ii) Travel together overnight away from their permanent residences; and
- (iii) Who have no fixed place of local residence.
- (7) TRAVELING SALES CREW OPERATOR (also referred to as "operator") means any entity or person, including but not limited to any individual, sole proprietor, entity, partnership, association, joint stock company, firm, limited liability corporation, trust, cooperative, or corporation who markets goods or services in this state using one or more traveling sales crews.
- (8) "Traveling Sales Crew Member" means a person working as part of, or in association with, a traveling sales crew.
- (a) The term "traveling sales crew member" does not include any person engaged in at least one of the following:
- (i) Maintains a fixed place of local residence or fixed retail establishment in the state.
- (ii) Is a re-seller of goods which that person buys at wholesale and to which that person takes title; or
- (iii) Sells services regulated by an agency of the federal government or is a seller whose activities are regulated by the State Commission of Insurance or other state agency.
- (9) FIXED PLACE OF LOCAL RESIDENCE means sleeping quarters within the state which is not rented for less than one month.

**SEC. 203. REGISTRATION OF TRAVELING SALES CREW ENTITIES AND MEMBERS.**

- (1) REGISTRATION REQUIREMENT -
  - (a) TRAVELING SALES CREW OPERATOR - No person shall utilize a traveling sales crew in any manner unless such entity has registered with the Department.
  - (b) TRAVELING SALES CREW MEMBER - No person shall work as a traveling sales crew member in any manner, unless such person has registered with the Department.
  
- (2) APPLICATION AND DISPLAY OF CERTIFICATE OF REGISTRATION -
  - (a) Traveling Sales Crews - Each traveling sales crew operator must ensure that traveling sales crew members possess valid certificates of registration at all times while engaging in traveling sales crew activities.
  - (b) Traveling Sales Crew Members - At all times while engaging in traveling sales crew activities, traveling sales crew members must carry a copy of the certificate of registration for the traveling sales crew on which they work and a photo identification issued by a state or federal government.
  - (c) Upon request by consumers and/or law enforcement officials, a traveling sales crew member must promptly produce his or her certificate of registration and photo identification.
  - (d) Any entity desiring to register a traveling sales crew operator shall file with the Department a written application containing information that the department deems necessary, along with a declaration, subscribed and sworn to by the applicant, consenting to the designation by the appropriate court of jurisdiction to serve as an agent to accept service of summons in any action against the applicant.
  - (e) Such registration is valid for 12 months from the issue date.
  
- (3) NOTICE OF TRAVELING SALES CREW MEMBERS - Between 14-30 days before any traveling sales crew member begins any sales activities on behalf of the traveling sales crew operator, the traveling sales crew operator must submit to the Department the information about each traveling sales crew member that the Department deems necessary.
  
- (4) ISSUANCE OF CERTIFICATE OF REGISTRATION -
  - (a) IN GENERAL- In accordance with any applicable regulations and after any investigation which the Department may deem appropriate, that department shall issue a certificate of registration, as either a traveling sales crew operator or as a traveling sale crew member, to any person who meets the standards for such registration.

1. REFUSAL TO ISSUE OR RENEW, SUSPENSION AND REVOCATION - The Department may refuse to issue or renew, or may suspend or revoke, a certificate of registration if the applicant for or holder of the certificate has been convicted of any felony or misdemeanor under federal or state law including but not limited to robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally.
  
- (5) TRANSFER OR ASSIGNMENT OF CERTIFICATE; EXPIRATION; RENEWAL - A traveling sales crew operator or traveling sales crew member certificate of registration is not transferable or assignable.
  
- (6) EXPIRATION AND EXTENSION -
  - (a) EXPIRATION - Unless either suspended or revoked, a certificate of registration shall expire 12 months from the date of issuance.
  - (b) EXTENSION - A certificate of registration may be temporarily extended, by the Department pursuant to administrative regulations.
  
- (7) NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION - During the period for which a certificate of registration is in effect, the traveling sales crew shall:
  - (a) provide to the Department within 30 days a notice of the change of information required in Subsections (3) and/or (4); and
  - (b) apply to the Department to amend the certificate of registration whenever the person intends to engage in any form of traveling sales crew activity not identified on the certificate.
  
- (8) FILING FEE - The Department shall require the payment of \$ \_\_\_\_\_ along with the filing of an application for the issuance or renewal of a certificate of registration. The Department shall apply all monies collected pursuant to this section toward reimbursement of the costs of administering this title.

## **SEC. 204. OBLIGATIONS OF OPERATORS TO TRAVELING SALES CREW MEMBERS.**

- (1) **DISCLOSURE OF TERMS AND CONDITIONS - WRITTEN DISCLOSURE-** Immediately upon recruitment, the traveling sales crew operator shall provide each potential traveling sales crew member, with a written disclosure of information, including:
  - (a) The permanent place of business or address for service of process of the traveling sales crew operator;
  - (b) The rate or rates to be paid;
  - (c) The timing of payments to members;
  - (d) The type or types of work required;
  - (e) The period of retention; and
  - (f) The transportation, housing, and any other benefits provided, and any costs chargeable to the worker for each such benefit.
  
- (2) **RECORDS AND STATEMENTS -** Traveling sales crews operators must, for each traveling sales crew member:
  - (a) Make, keep, and preserve records for three years, of:
    - (i) the basis on which compensation is paid;
    - (ii) number of piecework units earned, if paid on a piecework basis; the number of hours worked;
    - (iii) total pay period earnings;
    - (iv) specific sums withheld and the purpose of each sum withheld; and
    - (v) net pay.
  - (b) Provide to each worker for each pay period, an itemized written statement of the information required under subparagraph (a).
  
- (3) **PAYMENTS WHEN DUE -** Each traveling sales crew operator must promptly pay its traveling sales members the compensation owed that person when due as disclosed in Subsection 1 of this Section. The payments shall be in United States currency or in a negotiable instrument such as a bank check. The payments shall be accompanied by the written disclosure required by subsection (2)(b) containing the information set forth in 2(a).
  
- (4) **COSTS OF BUSINESS EXPENSES- PROHIBITION -** No traveling sales crew operator shall impose on any traveling sales crew member any of the traveling sales crew operator's business expenses, including, but not limited to, the cost of maintaining and operating a vehicle used to transport the traveling sales crew.
  
- (5) **INCLUSION AS PART OF COMPENSATION -** A traveling sales crew operator may only deduct from the compensation paid to a traveling sales

crew member the reasonable cost to the operator of furnishing board, lodging, or other facilities to such traveling sales crew member, so long as:

- (a) Such facilities are customarily furnished by such traveling sales crew to its members; and
- (b) Such cost does not exceed the fair market value of such facility and does not include any profit to the operator.

(6) SAFETY AND HEALTH IN TRANSPORTATION- Traveling sales crew operators shall provide transportation for traveling sales crew members, in a manner that is consistent with the following standards:

- (a) The traveling sales crew operator shall ensure that each vehicle conforms to applicable federal and state safety standards.
- (b) The traveling sales crew operator shall ensure that each driver of each such vehicle has a valid and appropriate license, as provided by state law, to operate the vehicle.
- (c) The traveling sales crew operator shall have an insurance policy or fidelity bond that covers the traveling sales crew members in an amount as the Department may prescribe.

(7) SAFETY AND HEALTH IN HOUSING - The traveling sales crew operator shall provide housing for its members in a manner consistent with the following standards:

- (a) If the traveling sales crew operator owns or controls the facility or real property used for housing traveling sales crew members, the traveling sales crew is responsible for ensuring that the facility or real property complies with substantive federal and state safety and health standards applicable to that housing.
- (b) If the traveling sales crew operator does not own or control the facility or real property used for housing traveling sales crew members, it must ensure that the owner or operator of such facility or real property complies with substantive federal and state safety and health standards applicable to that housing. Such assurance by the traveling sales crew operator shall include the verification that the owner or operator of such facility or real property is licensed and insured in accordance with all applicable state and local laws. The traveling sales crew operator shall obtain such assurance prior to housing any traveling sales crew members, in the facility or real property.

(8) INSURANCE - A traveling sales crew operator shall ensure that there is in effect, for each vehicle used to transport traveling sales crew members, an insurance policy or a liability bond which insures the traveling sales crew operator against liability for damage to persons and property, arising from the ownership, operation, or the causing to be operated of such vehicle for such purpose. The level of insurance or liability bond required shall be determined by the Department.

## **SEC. 205. ENFORCEMENT PROVISIONS.**

- (1) **CRIMINAL SANCTIONS** - Any person who willfully and knowingly violates this title, or any regulation promulgated under this title, shall be fined not more than \$10,000 or imprisoned for no more than 1 year, or both. Upon conviction for any subsequent violation of this title, or any such regulation, such person shall be fined not more than \$50,000 or imprisoned for no more than 3 years, or both.
- (2) **INJUNCTIVE RELIEF** - Any aggrieved person may petition the appropriate state or local court of the United States for temporary or permanent injunctive relief if the Department determines that this title, or any regulation promulgated under this title, has been violated.
- (3) **ADMINISTRATIVE SANCTIONS; PROCEEDINGS** -
  - (a) **CIVIL MONEY PENALTY** - Subject to paragraph (2), a person that violates this title, or any regulation promulgated under this title, may be assessed a civil money penalty of not more than \$10,000 for each such violation.
  - (b) **DETERMINATION OF PENALTY** - In determining the amount of any penalty to be assessed under paragraph (1), the following shall be taken into account:
    - (i) the previous record of the person in terms of compliance with this title and the regulations promulgated under this title; and
    - (ii) the gravity of the violation.
- (4) **ATTORNEY FEES** - The court shall, in addition to any judgment awarded to the plaintiff or plaintiffs under this paragraph, allow a reasonable attorney's fee to be paid by the defendant or defendants, and costs of the action.
- (5) **RULES AND REGULATIONS** - The Department may issue such rules and regulations as may be necessary to carry out this title.



State of Wisconsin  
2007 - 2008 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT ,  
TO 2007 SENATE BILL 80**

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1 **AN ACT ...; relating to:** the regulation of traveling sales crews, requiring the  
2 exercise of rule-making authority, and providing penalties.

*Analysis by the Legislative Reference Bureau*

**CURRENT LAW**

**HOUSE-TO-HOUSE EMPLOYMENT OF MINORS**

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

When a minor applies for a job in house-to-house street trades, the house-to-house employer must inform the minor in writing of the terms and conditions of employment, including the compensation to be paid, the time and



manner of payment of compensation, the number of days per week and hours per day that the minor would be required to conduct house-to-house street trades, the nature and frequency of required employment-related meetings and how compensation is paid for attendance at those meetings, whether and how the employer provides transportation, and the expenses that the minor would be required to pay. A house-to-house employer may change those terms and 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 SUBSTITUTE AMENDMENT**

**TRAVELING SALES CREWS**

***Introduction***

This substitute amendment regulates traveling sales crews, which the substitute amendment defines as a group of three or more traveling sales crew members, by doing all of the following:

1. Requiring a traveling sales crew operator to obtain a certificate of registration from DWD before the operator may use a traveling sales crew to engage in the sale of goods or services to consumers from house to house or on any street or in related support work, including operating a motor vehicle, on the person's behalf (traveling sales crew activities) or employ~~e~~<sup>s</sup>, offer to employ, or otherwise recruit a person to work as a traveling sales crew member. \*

2. Requiring a traveling sales crew operator to obtain a permit for a traveling sales crew member before the member may be employed or permitted to work in traveling sales crew activities. The substitute amendment defines ~~a~~<sup>a</sup> traveling sales crew member as a person who engages in traveling sales crew activities as part of or in association with a traveling sales crew, who travels with the traveling sales crew overnight away from his or her permanent place of residence, and who maintains no fixed place of local residence (lodging in this state at which the person intends to reside for not less than 30 days) or fixed retail establishment in this state. ~~The~~<sup>s</sup> substitute amendment excludes from the definition of "traveling sales crew member" a person who maintains a fixed place of local residence or a fixed retail establishment in this state, who is a reseller of goods that the person buys at wholesale and to which the person takes title, or who sells services that are regulated by a state or federal agency. \*

3. Requiring a traveling sales crew operator to comply with certain obligations to a traveling sales crew member, including obligations relating to the disclosure of certain information, record~~keeping~~<sup>s</sup>, payment of compensation, deductions from compensation, and transportation and housing safety. \*

4. Providing provisions to enforce the substitute amendment, including penalties and injunctive relief for a violation of the substitute amendment, any rules promulgated under the substitute amendment, or any order issued by DWD under

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CC

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in the performance of its duties<sup>5</sup>

the substitute amendment or for hindering or delaying DWD<sup>5</sup> or a law enforcement officer in the performance of their duties under the substitute amendment.  
his or her

### ***Traveling sales crew operator registration***

Under the substitute amendment, a person may not use a traveling sales crew to engage in traveling sales crew activities on the person's behalf or employ, offer to employ, or otherwise recruit a person to work as a traveling sales crew member unless the person first obtains a certificate of registration from DWD. A person may obtain a certificate of registration by filing with DWD a written application, meeting the standards under the substitute amendment 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 substitute amendment, including all of the following:

1. A designation of an agency upon whom service of process may be made in this state.
2. The social security number or federal employer identification number of the applicant.
3. Any other information that DWD considers necessary for the protection of the health, safety, and welfare of the traveling sales crew members working on behalf of the applicant, the consumers of goods or services sold by those members, and the public.

After completing any investigation that DWD considers appropriate, DWD must issue a certificate of registration, which is valid for a 12-month period, if the applicant meets the standards for issuance of a certificate of registration. DWD may deny, suspend, revoke, or refuse to renew a certificate of registration if DWD determines that the applicant has been convicted of any crime.

### ***Traveling sales crew member permits***

The substitute amendment prohibits a person from being employed or permitted to work as a traveling sales crew member unless the traveling sales crew operator on whose behalf the person will be working first obtains from DWD a traveling sales crew member permit (permit) for the person. A traveling sales crew operator may obtain a permit for a traveling sales crew member by the operator filing with DWD a written application and paying a registration fee determined by DWD by rule and by the member meeting the standards under the substitute amendment and under rules promulgated by DWD for issuance of a permit. The application must contain certain information specified in the substitute amendment, including all of the following:

1. The social security number of the applicant.
2. Any other information that DWD considers necessary for the protection of the health, safety, and welfare of the traveling sales crew members working on behalf of the traveling sales crew operator, the consumers of goods or services sold by those members, and the public.

After completing any investigation that DWD considers appropriate, DWD must issue a permit, which is valid for a 12-month period, if the traveling sales crew member meets the standards for issuance of a certificate of registration. DWD may

deny, suspend, revoke, or refuse to renew a permit if DWD determines that the traveling sales crew member has been convicted of any crime.

The bill also requires a traveling sales crew member to carry at all times while engaged in traveling sales crew activities the member's permit and an identification card issued by a state or federal governmental agency that includes, at a minimum, a photograph of the member.

### ***Obligations of traveling sales crew operators to members***

**Disclosure statement.** The substitute amendment requires a traveling sales crew operator to provide a person who is offered employment as a traveling sales crew member with a written disclosure statement that includes all of the following information:

1. The address of the principal place of business of the traveling sales crew operator or of the agent for service of process.
2. The compensation to be paid.
3. The type or types of work that the person may be required to perform.
4. The frequency of wage payments to traveling sales crew members.
5. The period of employment.
6. A description of the transportation, board, lodging, and other benefits to be provided and any costs chargeable to the person for those benefits.

**Records.** The substitute amendment also requires a traveling sales crew operator to keep records, with respect to each traveling sales crew member working on behalf of the traveling sales crew operator, of all of the following information:

1. The basis on which compensation is paid.
2. The number of piecework units earned, if the traveling sales crew member is paid on a piecework basis.
3. The number of hours worked.
4. The total earnings of the traveling sales crew member for a pay period.
5. The specific sums withheld from the traveling sales crew member's pay and the purpose of each sum withheld.
6. The net pay of the traveling sales crew member for a pay period.

The traveling sales crew operator must provide that information to a traveling sales crew member when compensation is paid.

**Payment of compensation; deductions.** In addition, the substitute amendment does all of the following:

1. Requires a traveling sales crew operator to pay all compensation owed to a traveling sales crew member promptly when due in U.S. currency or by a negotiable instrument such as a bank check or draft.

2. Permits a traveling sales crew operator to deduct from a traveling sales crew member's compensation the reasonable cost to the operator of furnishing board, lodging, or other facilities to the member, but only if the board, lodging, or other facilities are customarily furnished by the operator to its members and if the amount deducted does not exceed the fair market value of the board, lodging, or other facilities and does not include any profit to the operator.

3. Prohibits a traveling sales crew operator from imposing on any traveling sales crew member any of the traveling sales crew operator's business expenses,

including the cost of maintaining and operating a motor vehicle ~~that is~~ used to transport traveling sales crew members.

**Transportation safety.** Moreover, the substitute amendment requires a traveling sales crew operator to do all of the following:

1. Ensure that each motor vehicle ~~that~~ the operator uses or causes to be used to transport traveling sales crew members conforms to all applicable state and federal safety standards.

2. Ensure that each person who operates a motor vehicle that is used to transport a traveling sales member has a valid and appropriate driver's license.

3. Have in force, for each motor vehicle that is used to transport a traveling sales crew member, a policy of insurance or a liability bond that insures the operator, in an amount prescribed by DWD by rule, against liability for damages to persons and property arising out of the ownership or operation of the motor vehicle for that purpose or out of causing the motor vehicle to be operated for that purpose.

**Housing safety.** ~~Finally~~ with respect to the obligations of a traveling sales crew operator to a traveling sales crew member, the substitute amendment requires a traveling sales crew operator to ensure that any facility or property that is used to house a traveling sales crew member complies with all federal, state, and local safety and health standards that are applicable to the facility or property.

**Enforcement**

Finally, under the substitute amendment:

1. Any person ~~that~~ willfully and knowingly violates the substitute amendment, any rule promulgated under the substitute amendment, or any order issued by DWD under the substitute amendment or ~~that~~ hinders or delays DWD or any law enforcement officer in the performance of ~~their~~ duties under the substitute amendment (violation) may be fined not more than \$10,000 or imprisoned for not more than one year in the county jail or both and any person who, having been convicted of a prior violation, willfully and knowingly commits a subsequent violation may be fined not more than \$50,000 or imprisoned for not more than three years and six months or both.

2. Any person ~~that~~ commits a violation, but not willfully and knowingly, may be required to forfeit \$10,000, depending on the gravity of the violation and the previous record of the person in terms of compliance with the substitute amendment, any rules promulgated under the substitute amendment, and any orders issued by DWD under the substitute amendment.

3. If DWD determines that any person has committed a violation, DWD may refer the matter to the attorney general or the district attorney of the county in which the violation occurred, and the attorney general or district attorney may bring a civil action for appropriate injunctive relief.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

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

STET

STET

Crew

STET

Who

Who

in the performance of its duties

hinders or delays

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

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

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

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

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

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

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

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

16          **103.34 Regulation of traveling sales crews. (1) DEFINITIONS:** In this  
17 section:

18          (a) "Certificate of registration" means a certificate of registration issued by the  
19 department under sub. (2) (c).

20          (b) "Fixed place of local residence" means a place of lodging in this state at  
21 which a person intends to reside for not less than 30 days.

22          (c) "Goods" means wares, products, commodities, or merchandise of any type,  
23 including magazine subscriptions.

24          (d) "Permit" means a permit issued by the department under sub. (3) (c).

1 (e) "Sale" means a transfer for consideration of title to a good or the right to use  
2 a good or service and includes any sale, exchange, contract to sell, consignment for  
3 sale, shipment for sale, or other disposition of goods or services and any attempt to  
4 obtain information for the purpose of making such a sale, exchange, contract,  
5 consignment, shipment, or other disposition of goods or services in the future,  
6 including the taking of an order for future delivery.

7 (f) "Traveling sales crew" means a group of 3 or more traveling sales crew  
8 members, not including an immediate family member of a traveling sales crew  
9 operator.

10 (g) "Traveling sales crew activities" means the sale of goods or services to  
11 consumers from house to house or on any street or related support work, including  
12 operating a motor vehicle.

13 (h) "Traveling sales crew member" means a person who engages in traveling  
14 sales crew activities as part of or in association with a traveling sales crew, who  
15 travels with the traveling sales crew overnight away from his or her permanent place  
16 of residence, and who maintains no fixed place of local residence or fixed retail  
17 establishment in this state. "Traveling sales crew member" does not include a person  
18 who maintains a fixed place of local residence or a fixed retail establishment in this  
19 state, who is a reseller of goods that the person buys at wholesale and to which the  
20 person takes title, or who sells services that are regulated by a state or federal agency.

21 (i) "Traveling sales crew operator" means a person who uses a traveling sales  
22 crew to engage in traveling sales crew activities on the person's behalf.

23 **(2) TRAVELING SALES CREW OPERATOR REGISTRATION.** (a) *Registration required.*  
24 No person may use a traveling sales crew to engage in traveling sales crew activities  
25 on the person's behalf or employ, offer to employ, or otherwise recruit an individual

1 to work as a traveling sales crew member unless the person first obtains a certificate  
2 of registration from the department. To obtain a certificate of registration, a person  
3 shall file with the department a written application under par. (b), meet the  
4 standards specified in par. (c) for issuance of a certificate of registration, and pay a  
5 registration fee determined by the department by rule promulgated under sub. (7).

6 (b) *Application for registration.* To obtain a certificate of registration, a person  
7 shall file with the department a written application prescribed by the department  
8 by rule promulgated under sub. (7) that contains all of the following information:

9 1. A designation of an agency upon whom service of process may be made in this  
10 state. The agent shall be a resident of this state or a corporation authorized to do  
11 business in this state.

12 2. The social security number or federal employer identification number of the  
13 applicant as provided in sub. (5) (a).

14 3. Any other information that the department considers necessary for the  
15 protection of the health, safety, and welfare of the traveling sales crew members  
16 working on behalf of the applicant, the consumers of goods or services sold by those  
17 members, and the public.

18 (c) *Issuance of registration.* Subject to sub. (5) (b) and (c), after completing any  
19 investigation that the department considers appropriate, the department shall issue  
20 a certificate of registration to the applicant if the department determines that the  
21 applicant meets the standards under this section and rules promulgated under sub.  
22 (7) for issuance of a certificate of registration. Notwithstanding ss. 111.321, 111.322,  
23 and 111.335, the department may deny, suspend, revoke, or refuse to renew a  
24 certificate of registration if the department determines that the applicant or  
25 registrant has been convicted of any crime.

1           (d) *Registration; transfer, expiration, extension, and renewal.* 1. A certificate  
2 of registration is not transferable or assignable.

3           2. Unless earlier suspended or revoked, a certificate of registration expires 12  
4 months after its date of issuance. The department, in its discretion, may temporarily  
5 extend a certificate of registration if the registrant files an application for temporary  
6 extension not less than 30 days before the expiration of the certificate of registration.

7           3. A registrant may renew a certificate of registration by filing with the  
8 department an application under par. (b) and paying the renewal fee determined by  
9 the department by rule promulgated under sub. (7). The department shall renew the  
10 certificate of registration if the registrant meets the standards specified in par. (c)  
11 for renewal of a certificate of registration.

12           (e) *Notice of changes; amendment of registration.* 1. If during the period for  
13 which a certificate of registration is in effect any change occurs in any of the  
14 information provided to the department under par. (b), the registrant shall notify the  
15 department of that change within 30 days after the change occurs.

16           2. If during the period for which a certificate of registration is in effect the  
17 registrant intends to engage in any form of traveling sales crew activity that is not  
18 identified in the certificate of registration, the registrant shall apply to the  
19 department to amend the certificate of registration.

20           **(3) TRAVELING SALES CREW MEMBER PERMIT.** (a) *Permit required.* No person may  
21 be employed or permitted to work as a traveling sales crew member unless the  
22 traveling sales crew operator on whose behalf the person will be working first obtains  
23 from the department a permit for the person. To obtain a permit, the traveling sales  
24 crew operator shall file with the department on behalf of the applicant a written  
25 application under par. (b) and pay a permit fee determined by the department by rule



1 promulgated under sub. (7) and the applicant shall meet the standards specified in  
2 par. (c) for issuance of a permit.

3 (b) *Application for permit.* To obtain a permit for an applicant, a traveling sales  
4 crew operator shall file with the department on behalf of the applicant a written  
5 application prescribed by the department by rule promulgated under sub. (7) that  
6 contains all of the following information:

7 1. The social security number of the applicant as provided in sub. (5) (a).

8 2. Any other information that the department considers necessary for the  
9 protection of the health, safety, and welfare of the traveling sales crew members  
10 working on behalf of the traveling sales <sup>crew</sup> operator, the consumers of goods or services  
11 sold by those members, and the public.

12 (c) *Issuance of ~~registration~~ <sup>Ⓢ Permit</sup>*. Subject to sub. (5) (b) and (c), after completing any  
13 investigation that the department considers appropriate, the department shall issue  
14 a permit to the applicant if the department determines that the applicant meets the  
15 standards under this section and rules promulgated under sub. (7) for issuance of a  
16 permit. Notwithstanding ss. 111.321, 111.322, and 111.335, the department may  
17 deny, suspend, revoke, or refuse to renew a permit if the department determines that  
18 the applicant or permit holder has been convicted of any crime.

19 (d) *~~Registration~~ <sup>Ⓢ Permit</sup>; transfer, expiration, extension, and renewal.* 1. A permit is not  
20 transferable or assignable.

21 2. Unless earlier suspended or revoked, a permit expires 12 months after its  
22 date of issuance. The department, in its discretion, may temporarily extend a permit  
23 if the traveling sales crew operator on whose behalf the permit holder is working files  
24 an application for temporary extension not less than 30 days before the expiration  
25 of the permit.

1           3. A traveling sales crew operator may renew the permit of a permit holder who  
2 is working on behalf of the traveling sales crew operator by filing with the  
3 department an application under par. (b) and paying the renewal fee determined by  
4 the department by rule promulgated under sub. (7). The department shall renew the  
5 permit if the permit holder meets the standards specified in par. (c) for renewal of a  
6 permit.

7           (e) *Notice of changes; amendment of <sup>① permit</sup> registration.* 1. If during the period for  
8 which a permit is in effect any change occurs in any of the information provided to  
9 the department under par. (b), the traveling sales crew operator on whose behalf the  
10 permit holder is working shall notify the department of that change within 30 days  
11 after the change occurs.

12           2. If during the period for which a permit is in effect the traveling sales crew  
13 operator intends to have the permit holder engage in any form of traveling sales crew  
14 activity that is not identified in the permit, the traveling sales crew operator shall  
15 apply to the department to amend the permit.

16           (f) *Display of permit.* 1. A traveling sales crew operator shall ensure that a  
17 traveling sales crew member who is performing traveling sales crew activities on  
18 behalf of the traveling sales crew operator possesses at all times while engaging in  
19 those activities a valid permit and an identification card issued by a federal or state  
20 governmental agency that includes, at a minimum, a photograph of the traveling  
21 sales crew member.

22           2. A traveling sales crew member shall carry at all times while engaging in  
23 traveling sales crew activities the member's permit and identification card and shall  
24 promptly produce that permit and identification card upon the request of any deputy

1 of the department, law enforcement officer, or person with whom the member is doing  
2 business.

3 (g) *Validity of permit; compliance with local ordinances.* A permit is valid in  
4 every municipality in this state, but the issuance of a permit does not exempt a  
5 traveling sales crew operator or member from compliance with any municipal  
6 ordinance that requires the operator or member to obtain a solicitor's license or that  
7 prohibits the sale of goods or services to consumers from house to house, on any  
8 street, or in any other place that is open to the public.

9 (4) OBLIGATIONS OF TRAVELING SALES CREW OPERATORS TO MEMBERS. (a) *Disclosure*  
10 *statement.* At the time a person is offered employment as a traveling sales crew  
11 member or is otherwise recruited to work as a traveling sales crew member, the  
12 traveling sales crew operator shall provide the person with a written disclosure  
13 statement that include<sup>s</sup> all of the following information:

14 1. The address of the principal place of business of the traveling sales crew  
15 operator or of the agent for service of process under sub. (2) (b) 1.

16 2. The compensation to be paid.

17 3. The type or types of work that the person may be required to perform.

18 4. The frequency of wage payments to traveling sales crew members.

19 5. The period of employment.

20 6. A description of the transportation, board, lodging, and other benefits to be  
21 provided by the traveling sales crew operator to the person and any costs chargeable  
22 to the person for those benefits.

23 (b) *Records.* A traveling sales crew operator shall, with respect to each  
24 traveling sales crew member working on behalf of the traveling sales crew operator,

1 make, keep, and preserve for 3 years after the end of a pay period all of the following  
2 information:

3 1. The basis on which compensation is paid.

4 2. The number of piecework units earned, if the traveling sales crew member  
5 is paid on a piecework basis.

6 3. The number of hours worked.

7 4. The total earnings of the traveling sales crew member for the pay period.

8 5. The specific sums withheld from the traveling sales crew member's pay and  
9 the purpose of each sum withheld.

10 6. The net pay of the traveling sales crew member for the pay period.

11 (c) *Payment of compensation when due.* A traveling sales crew operator shall  
12 pay all compensation owed to a traveling sales crew member when due as provided  
13 under par. (a) 4. Compensation shall be paid in U.S. currency or by a negotiable  
14 instrument such as a bank check or draft. A traveling sales crew operator shall  
15 provide with each payment of compensation a written statement itemizing the  
16 information specified in par. (b) for the pay period.

17 (d) *Deductions; cost of business expenses.* A traveling sales crew operator may  
18 deduct from a traveling sales crew member's compensation the reasonable cost to the  
19 operator of furnishing board, lodging, or other facilities to the member if the board,  
20 lodging, or other facilities are customarily furnished by the operator to its members  
21 and if the amount deducted does not exceed the fair market value of the board,  
22 lodging, or other facilities and does not include any profit to the operator. Except as  
23 provided in this paragraph, a traveling sales crew operator may not impose on any  
24 traveling sales crew member any of the traveling sales crew operator's business

1 expenses, including the cost of maintaining and operating a motor vehicle that is  
2 used to transport traveling sales crew members.

3 (e) *Transportation safety.* A traveling sales crew operator shall do all of the  
4 following:

5 1. Ensure that each motor vehicle <sup>that</sup> the operator uses or causes to be used  
6 to transport a traveling sales crew member conforms to all applicable state and  
7 federal safety standards.

8 2. Ensure that each person who operates a motor vehicle that is used to  
9 transport a traveling sales <sup>crew</sup> member has a valid and appropriate operator's license  
10 issued under ch. 343 or under a comparable law of another state.

11 3. Have in force, for each motor vehicle that is used to transport a traveling  
12 sales crew member, a policy of insurance or a liability bond that insures the operator,  
13 in an amount prescribed by the department by rule promulgated under sub. (7),  
14 against liability for damages to persons and property arising out of the ownership  
15 or operation of the motor vehicle for that purpose or out of causing the motor vehicle  
16 to be operated for that purpose.

17 (f) *Housing safety.* A traveling sales crew operator shall ensure that any facility  
18 or property that is used to house a traveling sales crew member complies with all  
19 federal, state, and local safety and health standards that are applicable to the facility  
20 or property. If the facility or property is not owned or controlled by the traveling sales  
21 crew operator, the operator shall obtain verification that the owner or operator of the  
22 facility or property is licensed and insured in accordance with all applicable state and  
23 local laws prior to housing any traveling sales crew member in the facility or  
24 property.

1           **(5) CHILD SUPPORT; DELINQUENT TAXES.** (a) *Provision of social security or*  
2 *employer identification number.* 1. Except as provided in subd. 3., the department  
3 shall require each applicant for a certificate of registration or permit who is an  
4 individual to provide the department with the applicant's social security number,  
5 and shall require each applicant for a certificate of registration who is not an  
6 individual to provide the department with the applicant's federal employer  
7 identification number, when initially applying for or applying to renew the certificate  
8 of registration or permit.

9           2. If an applicant who is an individual fails to provide the applicant's social  
10 security number to the department or if an applicant who is not an individual fails  
11 to provide the applicant's federal employer identification number to the department,  
12 the department may not issue or renew a certificate of registration or permit to or  
13 for the applicant unless the applicant is an individual who does not have a social  
14 security number and the applicant submits a statement made or subscribed under  
15 oath or affirmation as required under subd. 3.

16           3. If an applicant who is an individual does not have a social security number,  
17 the applicant shall submit a statement made or subscribed under oath or affirmation  
18 to the department that the applicant does not have a social security number. The  
19 form of the statement shall be prescribed by the department. A certificate of  
20 registration or permit issued in reliance upon a false statement submitted under this  
21 subdivision is invalid.

22           4. The department may not disclose the social security number or the federal  
23 employer identification number to any person except to the department of revenue  
24 for the sole purpose of requesting certifications under s. 73.0301 or on the request of  
25 the department of children and families under s. 49.22 (2m).

1 (b) *Child support.* The department shall deny, suspend, refuse to renew, or  
 2 otherwise withhold a certificate of registration or permit for failure of the applicant  
 3 or registrant to pay court-ordered payments of child or family support, maintenance,  
 4 birth expenses, medical expenses, or other expenses related to the support of a child  
 5 or former spouse or for failure of the applicant or registrant to comply, after  
 6 appropriate notice, with a subpoena or warrant issued by the department of children  
 7 and families or a county child support agency under s. 59.53 (5) and related to  
 8 paternity or child support proceedings, as provided in a memorandum of  
 9 understanding entered into under s. 49.857. Notwithstanding s. 103.005 (10), an  
 10 action taken under this paragraph is subject to review only as provided in the  
 11 memorandum of understanding entered into under s. 49.857 and not as provided in  
 12 ch. 227.

13 (c) *Delinquent taxes.* The department shall deny an application for the issuance  
 14 or renewal of a certificate of registration or permit, or revoke a certificate of  
 15 registration or permit already issued, if the department of revenue certifies under  
 16 s. 73.0301 that the applicant or registrant is liable for delinquent taxes.  
 17 Notwithstanding s. 103.005 (10), an action taken under this paragraph is subject to  
 18 review only as provided under s. 73.0301 (5) and not as provided in ch. 227.

19 (6) ENFORCEMENT. (a) *Criminal penalties.* 1. Any person <sup>who</sup> ~~that~~ willfully and  
 20 knowingly violates this section, any rule promulgated under sub. (7), or any order  
 21 issued under this section or <sup>who</sup> ~~that~~ <sup>in the performance of its duties</sup> hinders or delays the department) or <sup>any law</sup> ~~any law~~  
 22 enforcement officer in the performance of <sup>his or her</sup> ~~their~~ duties under this section may be fined  
 23 not more than \$10,000 or imprisoned for not more than one year in the county jail  
 24 or both. <sup>hinders or delays</sup>

1           2. Whoever, having been convicted of a prior violation described in subd. 1.,  
2 willfully and knowingly commits a violation described in subd. 1. is guilty of a Class  
3 I felony, except that, notwithstanding the maximum fine specified in s. 939.50 (3) (i),  
4 the person may be fined not more than \$50,000.

5           (b) *Forfeitures.* Any person <sup>who</sup> ~~that~~ violates this section, any rule promulgated  
6 under sub. (7), or any order issued under this section or <sup>who</sup> ~~that~~ hinders or delays the  
7 department <sup>in the performance of its duties</sup> or any law enforcement officer <sup>his or her</sup> in the performance of <sup>their</sup> duties under  
8 this section may be required to forfeit \$10,000. Each day of continued violation  
9 constitutes a separate offense. In determining the amount of a forfeiture under this  
10 paragraph, the court shall consider the gravity of the violation and the previous  
11 record of the person in terms of compliance with this section, any rules promulgated  
12 under sub. (7), and any orders issued under this section.

13           (c) *Injunctive relief.* In addition to any other remedy under this subsection, if  
14 the department determines that any person has violated this section, any rule  
15 promulgated under sub. (7), or any order issued under this section or has hindered  
16 or delayed the department <sup>in the performance of its duties</sup> or any law enforcement officer <sup>his or her</sup> in the performance of <sup>their</sup>  
17 duties under this section, the department may refer the matter to the attorney  
18 general or the district attorney of the county in which the violation occurred, and the  
19 attorney general or district attorney may bring a civil action for injunctive relief as  
20 may be appropriate to compel compliance with this section, the rule, or the order or  
21 to permit the performance of those duties. In addition to any injunctive relief ordered  
22 in an action under this paragraph, the court, notwithstanding s. 814.01 (1), shall  
23 award to a party that obtains the injunctive relief reasonable actual attorney fees  
24 and other actual costs as may be incurred in the action.



1 (d) *Referral for prosecution.* The department may refer violations of this  
2 section, of any rules promulgated under sub. (7), or of any orders issued under this  
3 section for prosecution by the attorney general or the district attorney of the county  
4 in which the violation occurred.

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

7 (a) The information that an applicant for a certificate of registration or permit  
8 is required to provide in an application under sub. (2) (b) or (3) (b). ✓

9 (b) A fee for obtaining, renewing, or extending a certificate of registration or  
10 permit. The department shall determine the fee based on the cost of issuing  
11 certificates of registration and permits.

12 (c) Standards for the issuance of a certificate of registration or permit.

13 (d) The amount of liability insurance or of a liability bond that a traveling sales  
14 crew operator shall have in force under sub. (4) (e) 3. ✓

15 (8) **NONAPPLICABILITY.** This section does not apply to the employment of a  
16 person in a fund-raising sale for a nonprofit organization, as defined in s. 103.21 (2), ✓  
17 a public school, as defined in s. 103.21 (5), ✓ or a private school, as defined in s. 103.21  
18 (4). ✓

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

20 111.322 (2m) (a) The individual files a complaint or attempts to enforce any  
21 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, 103.50,  
22 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to 101.599 or 103.64 to  
23 103.82.

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

1 111.322 (2m) (b) The individual testifies or assists in any action or proceeding  
2 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,  
3 103.34, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to  
4 101.599 or 103.64 to 103.82.

5 **SECTION 8. Nonstatutory provisions.**

6 (1) RULE MAKING. The department of workforce development shall submit in  
7 proposed form the rules required under section 103.34 (7) of the statutes, as created  
8 by this act, to the legislative council staff under section 227.15 (1) of the statutes no  
9 later than the first day of the 6th month beginning after the effective date of this  
10 subsection. Notwithstanding section 227.137 (2) of the statutes, the secretary of  
11 administration may not require the department of workforce development to prepare  
12 an economic impact report for those rules.

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

15 (1) RULE MAKING. SECTION 8 (1) of this act takes effect on the day after  
16 publication.

17 (END)

**Malaise, Gordon**

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**From:** Seaholm, Matthew  
**Sent:** Thursday, January 24, 2008 3:08 PM  
**To:** Malaise, Gordon  
**Subject:** RE: Suggested changes to LRBs0215

Good deal. I talked with the DSA and it looks like everyone is on the same page. If you could go ahead with a /2 with the changes that would be great. I will send over the amendment jacket right away.

Thanks,  
Matt

---

**From:** Malaise, Gordon  
**Sent:** Thursday, January 24, 2008 2:24 PM  
**To:** Seaholm, Matthew  
**Subject:** RE: Suggested changes to LRBs0215

Matt:

Those look like good changes to me, especially for the reasons explained by the person from the DSA. If that's what your people want, I will draft a /2 incorporating those changes.

Gordon

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**From:** Seaholm, Matthew  
**Sent:** Thursday, January 24, 2008 2:17 PM  
**To:** Malaise, Gordon  
**Subject:** Suggested changes to LRBs0215

Gordon,

Below are a couple of suggested changes to the substitute amendment(LRBs0215) that you drafted for us to Senate Bill 80. A couple of changes are also in the attached file. If you could take a look at the changes and let me know if you see any problems with them that would be appreciated. Once I hear from you, I will talk with some folks and let you know whether to go ahead with the changes.

Thanks,  
Matt

Matt Seaholm  
Office of Rep. Moulton  
6-9172

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The section on page 7 of the substitute amendment that states, "Traveling sales crew member" does not include a person... who sells services that are regulated by a state or federal agency."

This section could create a loophole in that almost all businesses face some state or federal agency regulation. Instead of eliminating the section completely, we suggest the section read

**Malaise, Gordon**

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**From:** Seaholm, Matthew  
**Sent:** Thursday, January 24, 2008 2:17 PM  
**To:** Malaise, Gordon  
**Subject:** Suggested changes to LRBs0215  
**Attachments:** DSA Concerns with Assembly Substitute Amendment to SB 80.doc

Gordon,

Below are a couple of suggested changes to the substitute amendment(LRBs0215) that you drafted for us to Senate Bill 80. A couple of changes are also in the attached file. If you could take a look at the changes and let me know if you see any problems with them that would be appreciated. Once I hear from you, I will talk with some folks and let you know whether to go ahead with the changes.

Thanks,  
Matt

Matt Seaholm  
Office of Rep. Moulton  
6-9172

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The section on page 7 of the substitute amendment that states, "Traveling sales crew member" does not include a person... who sells services that are regulated by a state or federal agency."

This section could create a loophole in that almost all businesses face some state or federal agency regulation. Instead of eliminating the section completely, we suggest the section read as follows:

"Traveling sales crew member" does not include a person....who sells services that are regulated by the Wisconsin Office of the Commissioner of Insurance or the Federal Communications Commission." This should address any concerns by the insurance and telecommunications industry.

as follows:

“Traveling sales crew member” does not include a person....who sells services that are regulated by the Wisconsin Office of the Commissioner of Insurance or the Federal Communications Commission.” This should address any concerns by the insurance and telecommunications industry.



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### Key Issues with the Assembly Substitute Amendment to 2007 Senate Bill 80

<b>Problematic language in Substitute Amendment:</b>	<b>Why problematic:</b>	<b>Suggested solution:</b>
(lodging in this state at which the person intends to reside for less than 30 days) (p. 2)  and  (b) "Fixed place of local residence" means place of lodging in this state at which a person intends to reside for not less than 30 days. (p.7)	The language creates a large loophole for traveling sales crew operators, since the word, "intends" is highly subjective.	FIXED PLACE OF LOCAL RESIDENCE means sleeping quarters within the state which is not rented for less than one month. (p. 2 of DSA Model Bill)
<b>(3) TRAVELING SALES CREW MEMBER PERMIT.</b>  (a) <i>Permit required.</i> No person may be employed or permitted to work as a traveling sales crew member...	The word, "employed," sets a potential precedent that other direct salespeople could be classified as employees.	"Utilized" should replace "employed."