

2007 DRAFTING REQUEST

Senate Amendment (SA-AB321)

Received: **01/18/2008**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Wirch (608) 267-8979**

By/Representing: **Michael**

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

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Military Affairs - emerg govt**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Immunity for household products

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>
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FE Sent For:

<END>

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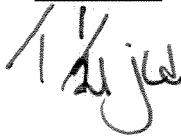


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FE Sent For:

<END>

Nelson, Robert P.

From: Tierney, Michael
Sent: Friday, January 18, 2008 2:49 PM
To: Nelson, Robert P.
Subject: AB 321 amendment request
Attachments: 07 AB-321.pdf; 07 AB 321 letter.doc

Robert -

Please find attached a letter Senator Wirch received with a suggestion for a Senate amendment to AB 321.

Senator Wirch has scheduled this bill for an executive session on the 23rd and we would like to have an amendment drafted that addresses the concerns raised in the letter regarding emergency household products.

Thank you.

Mike Tierney
Office of Senator Wirch

January 18, 2008

Senator Robert Wirch
Room 317 East State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Re: Assembly Bill 321

Dear Senator Wirch:

A representative of the Wisconsin Academy of Trial Lawyers was unable to attend the public hearing scheduled for December 12 on Assembly Bill 321 — the Disaster Preparedness Bill — before the Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection Committee. We would like to share our concern with the bill.

First, as a general principle, our organization opposes immunity. Immunity utterly ignores the facts or the circumstances of improper or unsafe behavior. The specific facts of a person or corporation's conduct do not matter. Immunity simply slams shut the courthouse door, abruptly and entirely closing any legal action for all time.

We understand that important public policy considerations can justify a grant of immunity. Emergency actions are obviously a very important concern given the tremendous problems communities and people face when devastated by floods, hurricanes, tornados and ice storms. However, the exalted status of immunity ought to be reserved for very extraordinary circumstances.

Our concern is with the broad definition of "Emergency household products." It includes "flashlights, generators, blankets, personal care products, household cleaning products, and emergency supplies." Taken in conjunction with the broad grant of immunity, which includes an injury of death caused by the emergency household product, it appears to imply that even a dangerous or defective product could receive this grant of immunity.

For example, the Consumer Product Safety Commission contains a list of recalled products. What if a corporation donates a product on the list — which includes candles,

power strips, portable heaters, generators, batteries — would the grant of immunity still apply? Does that rise to the level of willful or wanton acts or omissions so the immunity provision does not apply?

We notice that the current law provides givers with immunity for donating “qualified food.” The definition of “qualified food” in § 895.51(4) requires the donated food to “meet the standards of quality established by state law or rule or federal law or regulations, including food products that are not readily marketable due to appearance, age, freshness, grade, size, surplusage or other condition, except that “qualified food” does not include canned food products that are leaking, swollen, dented on a seam or not airtight.”

We would like a similar qualification included in the definition of “emergency household products.” So, that the donated items meet the standards for safety by state or federal law or regulations; the product is not dangerous or defective or subject to a recall by the Consumer Product Safety Commission.

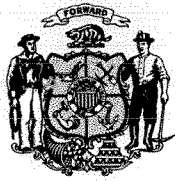
We know that emergencies require prompt action to help alleviate the devastation people are experiencing. We certainly want to encourage those who can assist in providing necessary items do so; it is the charitable and compassionate thing to do. However, if people are injured or killed by donated products that prove to be dangerous and defective and then learn that they have no way to hold the manufacturer accountable, they will feel like they were not only hurt by the disaster, but also victimized by the legal system.

Thank you for this opportunity to share our concerns. We look forward to your response.

Sincerely,

Christine Bremer Muggli
President

cc: Senator Tim Carpenter
Senator Jeffrey Plale
Senator Neal Kedzie
Senator Carol Roessler



5000 (1/21)
State of Wisconsin
2007 - 2008 LEGISLATURE

LRBa1098/1

RPN: A:...

Jld

SENATE AMENDMENT ,
TO 2007 ASSEMBLY BILL 321

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

2 1. Page 9, line 14: after "supplies" insert "that meet the standards for safety
3 established by federal or state law, regulation, or rule, that are not dangerous or
4 defective, and that are not subject to a recall by the consumer products safety
5 commission".

6 (END)