



2009 ASSEMBLY BILL 528

October 27, 2009 – Introduced by Representatives RHOADES, MONTGOMERY, NYGREN, TOWNSEND, VOS, A. OTT and NERISON, cosponsored by Senator SCHULTZ. Referred to Committee on Elections and Campaign Reform.

1 **AN ACT** *to amend* 103.34 (1) (am), 103.34 (1) (d), 103.34 (1) (e), 103.34 (3) (a) 1.,
2 103.34 (3) (a) 7., 103.34 (5) (a) 5., 103.34 (9) (j) and 103.34 (14) (a); and *to create*
3 103.34 (1) (ar) and 103.34 (1) (bm) of the statutes; **relating to:** the regulation
4 of traveling sales crews that solicit contributions for advocacy or political
5 organizations.

Analysis by the Legislative Reference Bureau

Current law regulates the employers of traveling sales crews, which are defined as two or more individuals who are employed as salespersons or in related support work, who travel together in a group, and who are absent overnight from their permanent residences for the purpose of selling consumer goods or services to consumers from house to house, on any street, or in any other place that is open to the public.

This bill extends the laws regulating traveling sales crews to nonprofit organizations operated exclusively for the promotion of social welfare that devote their net earnings exclusively to charitable, educational, or recreational purposes (commonly referred to as “501 (c) (4) organizations” after the provision of the Internal Revenue Code describing those organizations); and to political organizations operated primarily for the purpose of accepting contributions or making expenditures for the purpose of influencing the selection, nomination, election, or appointment of an individual to any federal, state, or local public office (commonly referred to as “527 political organizations” after the provision of the Internal Revenue Code describing those organizations).

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Specifically, under current law, a person may not employ, offer to employ, or otherwise recruit an individual to work as a traveling sales crew worker without first obtaining a certificate of registration from the Department of Workforce Development (DWD). To obtain a certificate of registration, a person must meet certain minimum requirements, including undergoing a background investigation to determine whether the person has been convicted of certain disqualifying offenses specified under current law and establishing proof of the person's ability to pay any compensation owed to a traveling sales crew worker employed by the person. This bill extends those registration requirements to 501 (c) (4) organizations and 527 political organizations that employ traveling sales crews to solicit contributions from house to house, on any street, or in any other place that is open to the public.

Current law also requires an employer to provide an individual who is offered employment as a traveling sales crew worker with a written disclosure statement of the terms of employment. The written disclosure statement must include: 1) the place or places of employment; 2) the compensation to be paid; 3) the type or types of work on which the individual may be employed; 4) the pay period and the manner in which compensation will be paid; 5) the number of days per week and hours per day that the individual may be required to engage in sales activities or related support work; 6) the period of employment, including the approximate beginning and ending dates of employment; 7) a description of the board, lodging, and other facilities to be provided and any costs to be charged to the individual for those facilities; and 8) description of the transportation to be provided. This bill extends that written disclosure requirement to 501 (c) (4) organizations and 527 political organizations that employ traveling sales crews to solicit contributions from house to house, on any street, or in any other place that is open to the public.

In addition, current law requires an employer of a traveling sales crew worker to: 1) pay all compensation earned by the worker in U.S. currency or by check or draft on regular paydays designated in advance, but not less often than semimonthly; 2) to provide with each payment a written statement itemizing gross pay, net pay, and the amount of and reason for each deduction from gross pay; 3) to maintain and operate any motor vehicle used to transport traveling sales crews in compliance with all applicable state and federal safety standards; and 4) to have in force a motor vehicle liability insurance policy and an insurance policy covering the negligent acts or omissions of the employer and, if required to do so under the worker's compensation law, provide worker's compensation coverage. This bill extends those requirements to 501 (c) (4) organizations and 527 political organizations that employ traveling sales crews to solicit contributions from house to house, on any street, or in any other place that is open to the public.

Moreover, current law prohibits an employer of traveling sales crew workers from engaging in any of the following prohibited practices:

1. Employing as a traveling sales crew worker a minor or employing as a traveling sales crew worker an adult who has been adjudged incompetent without the permission of the person's guardian.

2. Requiring a traveling sales crew worker to engage in any in-person sales or solicitation activities before 9:00 a.m. or after 9:00 p.m.

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3. Considering a traveling sales crew worker to be an independent contractor rather than an employee.

4. Requiring a traveling sales crew worker to purchase any goods or services solely from the employer or to pay any of the employer's business expenses, except that, subject to certain conditions, an employer may deduct from a worker's compensation the cost of furnishing board, lodging, or other facilities.

5. Abandoning a traveling sales crew worker who is unable to work due to illness or injury or who is discharged from employment for reasons other than misconduct without providing for the return of the traveling sales crew worker to his or her permanent place of residence.

6. Abandoning a traveling sales crew worker who has been arrested and is being held in custody in connection with a violation of the traveling sales crew law or a local ordinance regulating the conduct regulated by that law.

7. Requiring a traveling sales crew worker to relinquish custody of any of his or her personal property to the employer, to any employee, agent, or representative of the employer who supervises or transports traveling sales crew workers, or to any other traveling sales crew worker of the employer.

8. Prohibiting or restricting a traveling sales crew worker from contacting any family member, friend, or other person while traveling with the traveling sales crew.

9. Intentionally inflicting or threatening to inflict any bodily harm on a traveling sales crew worker or damage to the property of a traveling sales crew worker as a means of discipline or motivation.

10. Advising or counseling a traveling sales crew worker to make false representations to a person to whom he or she is offering consumer goods or services concerning his or her motivation for selling those goods or services.

This bill extends those prohibited practices to 501 (c) (4) organizations and 527 political organizations that employ traveling sales crews to solicit contributions from house to house, on any street, or in any other place that is open to the public.

Finally, current law: 1) prohibits an individual from being employed as a traveling sales crew worker unless the employer of the individual first obtains from DWD a traveling sales crew worker permit (permit) for the individual and the individual first obtains from DWD an identification card; 2) requires permits and identification cards to be carried at all times while an employer or worker is engaged in traveling sales crew activities; 3) requires a permit to be stamped or endorsed by the city, village, or town clerk before a traveling sales crew worker may engage in any traveling sales crew activities in the city, village, or town; 4) and requires local law enforcement authorities to be notified that traveling sales crew workers will be engaging in traveling sales crew activities in that city, village, or town. This bill extends those permit, identification, and notification requirements to 501 (c) (4) organizations and 527 political organizations that employ traveling sales crews to solicit contributions from house to house, on any street, or in any other place that is open to the public.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 103.34 (1) (am) of the statutes, as created by 2009 Wisconsin Act
2 3, is amended to read:

3 103.34 (1) (am) “Consumer” means an individual to whom a seller sells, offers
4 to sell, or advertises or promotes the sale of consumer goods or services or from whom
5 a solicitor solicits contributions. “Consumer” does not include an individual who
6 purchases goods or services in a business or governmental capacity or for resale to
7 others.

8 **SECTION 2.** 103.34 (1) (ar) of the statutes is created to read:

9 103.34 (1) (ar) “Contribution” means a contribution of money or anything of
10 value, or a contract, promise, or agreement, whether or not legally enforceable, to
11 contribute money or anything of value, to a nonprofit organization or association
12 described in section 501 (c) (4) of the Internal Revenue Code or a political
13 organization described in section 527 of the Internal Revenue Code.

14 **SECTION 3.** 103.34 (1) (bm) of the statutes is created to read:

15 103.34 (1) (bm) “Employer” means a person that employs traveling sales crews
16 to engage in traveling sales crew activities. “Employer” includes a nonprofit
17 organization or association described in section 501 (c) (4) of the Internal Revenue
18 Code or a political organization described in section 527 of the Internal Revenue
19 Code.

20 **SECTION 4.** 103.34 (1) (d) of the statutes, as created by 2009 Wisconsin Act 3,
21 is amended to read:

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1 103.34 (1) (d) “Traveling sales crew” means 2 or more individuals who are
2 employed as salespersons, as solicitors of contributions, or in related support work,
3 who travel together in a group, and who are absent overnight from their permanent
4 places of residence for the purpose of selling consumer goods or services to consumers
5 or of soliciting contributions from consumers from house to house, on any street, or
6 in any other place that is open to the public. “Traveling sales crew” does not include
7 2 or more individuals who are traveling together for the purpose of participating in
8 a trade show or convention or 2 or more immediate family members who are traveling
9 together for the purpose of selling consumer goods or services or of soliciting
10 contributions.

11 **SECTION 5.** 103.34 (1) (e) of the statutes, as created by 2009 Wisconsin Act 3,
12 is amended to read:

13 103.34 (1) (e) “Traveling sales crew activities” means the sale of consumer
14 goods or services to consumers or the solicitation of contributions from consumers
15 from house to house, on any street, or in any other place that is open to the public or
16 related support work. “Traveling sales crew activities” does not include the sale of
17 consumer goods or services or the solicitation of contributions from a fixed location
18 at a concert, festival, carnival, street fair, public exhibition, or other similar special
19 event with the permission of the organizer of the special event.

20 **SECTION 6.** 103.34 (3) (a) 1. of the statutes, as created by 2009 Wisconsin Act
21 3, is amended to read:

22 103.34 (3) (a) 1. The name of the applicant, the address and telephone number
23 of the applicant’s principal place of business, and, if the applicant is engaged in sales
24 activities or in the solicitation of contributions on behalf of a principal, the name,
25 address, and telephone number of the principal.

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1 **SECTION 7.** 103.34 (3) (a) 7. of the statutes, as created by 2009 Wisconsin Act
2 3, is amended to read:

3 103.34 **(3)** (a) 7. The type of sales activities or contribution solicitation activities
4 to be performed and the nature of the consumer goods or services to be sold or the
5 contributions to be solicited by the traveling sales crew workers of the applicant. If
6 the goods to be sold are magazine subscriptions, the applicant shall provide the
7 names, addresses, and telephone numbers of the publishers of those magazines.

8 **SECTION 8.** 103.34 (5) (a) 5. of the statutes, as created by 2009 Wisconsin Act
9 3, is amended to read:

10 103.34 **(5)** (a) 5. The number of days per week and hours per day that the
11 individual may be required to engage in sales activities, in the solicitation of
12 contributions, or in related support work.

13 **SECTION 9.** 103.34 (9) (j) of the statutes, as created by 2009 Wisconsin Act 3,
14 is amended to read:

15 103.34 **(9)** (j) Advise or counsel a traveling sales crew worker to make false
16 representations to a person to whom he or she is offering consumer goods or services
17 or from whom he or she is soliciting contributions concerning his or her motivation
18 for selling those goods or services or for soliciting those contributions.

19 **SECTION 10.** 103.34 (14) (a) of the statutes, as created by 2009 Wisconsin Act
20 3, is amended to read:

21 103.34 **(14)** (a) This section does not apply to the employment of a person in a
22 fund-raising sale for a nonprofit organization, as defined in s. 103.21 (2), other than
23 a nonprofit organization or association described in section 501 (c) (4) of the Internal
24 Revenue Code, a public school, as defined in s. 103.21 (5), or a private school, as
25 defined in s. 103.21 (4).

