

**2009 DRAFTING REQUEST**

**Senate Amendment (SA-SB4)**

Received: **03/07/2009**

Received By: **gmalaise**

Wanted: **Soon**

Identical to LRB:

For: **Randy Hopper (608) 266-5300**

By/Representing: **Mary Matthias**

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: **Sen.Hopper@legis.wisconsin.gov**

Carbon copy (CC:) to: **mary.matthias@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Traveling sales crews; exception for occasional 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>
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FE Sent For:

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**Malaise, Gordon**

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**From:** Matthias, Mary  
**Sent:** Thursday, March 05, 2009 10:33 AM  
**To:** Malaise, Gordon  
**Subject:** SB 4/AB 14

Hello again!

Another simple amendment to SB 4/AB 14 has been requested-- by Rep. Zipperer and Sen. Hopper.

Anne Sappenfield and I are working on drafting instructions for this amendment. The legislators want to see drafting instructions before going ahead with the drafting. We were wondering if you could take a look at these proposed drafting instructions for us and let us know if they sound ok.

The intent of the amendment is to create an exemption from the bill's requirements for Charter Inc, which uses salespeople (full time permanent employees) that might fit within the definition of traveling sales crew because they are occasionally away from their homes overnight to conduct door-to-door sales. We don't want to use state residency as a criteria for the exemption because of Commerce Clause concerns. Also, they want to make the exemption difficult to fit into because Sen. Erpenbach has stated he will oppose any exemptions that would create a loophole that the "bad actors" could sneak through. So the Charter folks pointed out several of the bill's requirements that they are already in compliance with and asked that these be requirements that have to be met in order to be exempt from the rest of the bill.

The amendment would create a new exemption from the requirements of the bill in sub. (14), as follows:

(14)(bm) This section does not apply to a person for whom all of the following are true:

1. The person is a year-round (or permanent?) employee of the company for whom they conduct sales activities.
2. Sales activities that require the employee to be absent overnight from his or her permanent place of residence constitute no more than 20% of the total job duties that the person performs for the employer on an annual basis.
3. The employee is covered by WI workers compensation or the workers compensation program of any other state while engaged in sales in WI.
4. The employee is paid compensation on regular paydays designated in advance by the employer.
5. Pre-employment background checks are performed by the employer for all employees, agents or representatives of the employer who supervise or transport workers who are absent overnight from their permanent places of residence to conduct sales for the employer.
6. Vehicles provided by the employer are maintained as required under sub.(7).
7. Insurance coverage that is at least as comprehensive as that required under sub.(8)

is provided.

8. The employer has provided proof of financial responsibility as required under sub. (4).

The employer must file an affidavit with the department, in the form and manner prescribed by the department, along with any other information required by the department to provide proof of compliance with the requirements set forth above.

Thanks!

*Mary Matthias*

Senior Staff Attorney

Wisconsin Legislative Council Staff

Ph.(608)266-0932;Fax (608)266-3830



State of Wisconsin  
2009 - 2010 LEGISLATURE

IN 317  
Soon

LRBa0109/?  
GMM:.....  
jld

**SENATE AMENDMENT ,  
TO 2009 SENATE BILL 4**

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

2 1. Page 26, line 18: after that line insert:

3 "(am) This section does not apply to the employment of 2 or more individuals  
4 who are traveling together for the purpose of selling goods or services if all of the  
5 following apply:

6 1. The individuals are permanent employees of the employer for whom the  
7 individuals are selling goods or services.

8 2. Sales activities that require the individuals to be absent overnight from their  
9 permanent places of residence constitute no more than 20 percent of the job duties  
10 that the individuals perform for the employer on an annual basis.

11 3. The employer covers the individuals for worker's compensation benefits  
12 while the individuals are engaged in sales activities in this state as required under  
13 s. 102.28 (2) or under the law of any other state.

