

2009 DRAFTING REQUEST

Bill

Received: **03/08/2010**

Received By: **gmalaise**

Wanted: **As time permits**

Companion to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Craig Trost**

May Contact:

Drafter: **gmalaise**

Subject: **Employ Priv - worker's comp
Discrimination
Unemployment Insurance**

Addl. Drafters:

Extra Copies: **JTK**

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Misclassification of employees of painting contractors

Instructions:

Apply to painting contractors provisions recently enacted in Act 28 relating to misclassification of employees as independent contractors for purposes of evading employment laws

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 03/09/2010	jdyer 03/10/2010		_____			S&L Crime
/1			jfrantze 03/10/2010	_____	cduerst 03/10/2010		S&L Crime
/2	gmalaise 03/15/2010	jdyer 03/16/2010	phenry 03/16/2010	_____	sbasford 03/16/2010	mbarman 04/02/2010	

FE Sent For:

*at
intro*

<END>

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1?	gmalaise	1 3/10 jld	26	3/10			

FE Sent For:

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4494/7

GMM

Ln 319
This week

JLD

X

Gen

1 AN ACT ...; **relating to:** willful misclassification of an employee as a nonemployee
 2 by a person engaged in the painting of buildings or other structures with intent
 3 to evade the laws related to income tax withholding, worker's compensation,
 4 unemployment insurance, or employment discrimination and providing a
 5 penalty.

Analysis by the Legislative Reference Bureau

Under current law, any employer engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects who misclassifies an employee as a nonemployee willfully and with intent to evade any requirement of the laws relating to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination is subject to a \$25,000 fine for each violation. This bill applies that fine to any person engaged in the painting of buildings or other structures who willfully and with intent to evade any of those laws misclassifies an employee as a nonemployee.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* 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.** 71.63 (3) (d) of the statutes, as created by 2009 Wisconsin Act 28,
2 is amended to read:

3 71.63 (3) (d) With regard to ss. 71.65 (6), "employer" means a person described
4 in s. 108.18 (2) (c) or a person engaged in the painting of buildings or other structures.

5 **History:** 1987 a. 312; 1989 a. 278; 1993 a. 112; 1997 a. 27; 2005 a. 441; 2009 a. 28.

6 **SECTION 2.** 102.07 (8) (d) of the statutes, as created by 2009 Wisconsin Act 28,
7 is amended to read:

8 102.07 (8) (d) Any employer described in s. 108.18 (2) (c) or engaged in the
9 painting of buildings or other structures who willfully and with intent to evade any
10 requirement of this chapter misclassifies or attempts to misclassify an individual
11 who is an employee of the employer as a nonemployee shall be fined \$25,000 for each
12 violation.

13 **History:** 1975 c. 147 s. 54; 1975 c. 224; 1977 c. 29; 1979 c. 278; 1981 c. 325; 1983 a. 27, 98; 1985 a. 29, 83, 135; 1985 a. 150 s. 4; 1985 a. 176, 332; 1987 a. 63; 1989 a. 31, 64, 359; 1993 a. 16, 81, 112, 399; 1995 a. 24, 77, 96, 117, 225, 289, 417; 1997 a. 35, 38, 118; 1999 a. 14, 162; 2001 a. 37; 2005 a. 96; 2007 a. 130; 2009 a. 28, 42.

14 **SECTION 3.** 108.24 (2m) of the statutes, as created by 2009 Wisconsin Act 28,
15 is amended to read:

16 108.24 (2m) Any employer described in s. 108.18 (2) (c) or engaged in the
17 painting of buildings or other structures who willfully provides false information to
18 the department for the purpose of misclassifying or attempting to misclassify an
19 individual who is an employee of the employer as a nonemployee shall be fined
20 \$25,000 for each violation.

21 **History:** 1973 c. 247; 1983 a. 8; 1991 a. 89; 2005 a. 86; 2009 a. 28.

22 **SECTION 4.** 111.327 of the statutes, as created by 2009 Wisconsin Act 28, is
23 amended to read:

1 **111.327 Construction contractors.** Any employer described in s. 108.18 (2)
2 (c) or engaged in the painting of buildings or other structures who willfully and with
3 intent to evade any requirement of this subchapter misclassifies or attempts to
4 misclassify an individual who is an employee of the employer as a nonemployee shall
5 be fined \$25,000 for each violation. The department shall promulgate rules defining
6 what constitutes a willful misclassification of an employee as a nonemployee for
7 purposes of this section and of ss. 102.07 (8) (d) and 108.24 (2m).

8 History: 2009 a. 28.

(END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

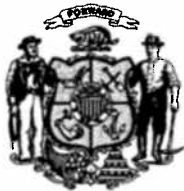
Library (608-266-7040)

Legal (608-266-3561)

LRB

3/15

Craig - add drywall finishing



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4494/12
GMM:jld:jf RMR

In 3/15

Two 3/16

2009 BILL

Regen

or drywall finishing ✓

✓

1 AN ACT to amend 71.63 (3) (d), 102.07 (8) (d), 108.24 (2m) and 111.327 of the
2 statutes; relating to: willful misclassification of an employee as a
3 nonemployee by a person engaged in the painting of buildings or other
4 structures with intent to evade the laws related to income tax withholding,
5 worker's compensation, unemployment insurance, or employment
6 discrimination and providing a penalty.

or drywall finishing ✓

Analysis by the Legislative Reference Bureau

Under current law, any employer engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects who misclassifies an employee as a nonemployee willfully and with intent to evade any requirement of the laws relating to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination is subject to a \$25,000 fine for each violation. This bill applies that fine to any person engaged in the painting of buildings or other structures who willfully and with intent to evade any of those laws misclassifies an employee as a nonemployee.

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BILL

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6 what constitutes a willful misclassification of an employee as a nonemployee for
7 purposes of this section and of ss. 102.07 (8) (d) and 108.24 (2m).

8

(END)

Parisi, Lori

From: Trost, Craig
Sent: Thursday, April 01, 2010 4:24 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4494/2 Topic: Misclassification of employees of painting contractors

Please Jacket LRB 09-4494/2 for the ASSEMBLY.