



State of Wisconsin
2007 - 2008 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 SENATE BILL 80**

February 19, 2008 – Offered by Representative MOULTON.

1 **AN ACT to amend** 21.72 (1) (a) 10., 49.857 (1) (d) 10., 73.0301 (1) (d) 3m., 103.005
2 (10), 111.322 (2m) (a) and 111.322 (2m) (b); and **to create** 103.34 of the statutes;
3 **relating to:** the regulation of traveling sales crews, requiring the exercise of
4 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, 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 permitted to work in traveling sales crew activities. The substitute amendment defines "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 has tenancy for at least one month) or fixed retail establishment in this state. The 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 the office of the Commissioner of Insurance or the Federal Communications Commission.

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, payment of compensation, deductions from compensation, and transportation and housing safety.

4. Prohibiting a traveling sales crew operator from engaging in certain prohibited practices, such as permitting a minor or incompetent adult to work on a traveling sales crew, requiring a traveling sales crew member to work during certain hours or to relinquish custody of his or her property, prohibiting a traveling sales crew member from contacting his or her family, inflicting or threatening to inflict bodily harm on a traveling sales crew member, advising a traveling sales crew member to make false representations in offering goods or services for sale, and discharging or discriminating against any person for opposing a practice prohibited under the substitute amendment.

5. 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 the substitute amendment or for hindering or delaying DWD in the performance of its duties, or a law enforcement officer in the performance of his or her duties, under the substitute amendment.

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 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 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 recruited to work 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 engagement.
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 crew member has a valid and appropriate driver's license.

3. Have in force, for each motor vehicle 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.

Prohibited practices

The substitute amendment prohibits a traveling sales crew operator or any other person on behalf of a traveling sales crew operator from doing any of the following:

1. Permitting to work as a traveling sales crew member a minor or permitting to work as a traveling sales crew member an adult who has been adjudged incompetent without the permission of the person's guardian.

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

3. Requiring a traveling sales crew member to relinquish custody of any of his or her personal property to the traveling sales crew operator, to any other traveling sales crew member working on behalf of the operator, or to any other person.

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

5. Intentionally inflicting or threatening to inflict any bodily harm on a traveling sales crew member or damage to the property of a traveling sales crew member.

6. Advising or counseling a traveling sales crew member to make false representations to a person to whom he or she is offering goods or services for sale.

7. Discharging or discriminating against any person for opposing any practice prohibited under the substitute amendment.

Enforcement

Finally, under the substitute amendment:

1. Any person who 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 who hinders or delays DWD in the performance of its duties or hinders or delays any law enforcement officer in the performance of his or her 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 who 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:

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

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

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

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

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

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

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

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

10 **103.34 Regulation of traveling sales crews. (1) DEFINITIONS:** In this
11 section:

12 (a) “Certificate of registration” means a certificate of registration issued by the
13 department under sub. (2) (c).

14 (b) “Fixed place of local residence” means a place of lodging in this state at
15 which a person has tenancy for at least one month.

16 (c) “Goods” means wares, products, commodities, or merchandise of any type,
17 including magazine subscriptions.

18 (d) “Permit” means a permit issued by the department under sub. (3) (c).

19 (e) “Sale” means a transfer for consideration of title to a good or the right to use
20 a good or service and includes any sale, exchange, contract to sell, consignment for
21 sale, shipment for sale, or other disposition of goods or services and any attempt to
22 obtain information for the purpose of making such a sale, exchange, contract,
23 consignment, shipment, or other disposition of goods or services in the future,
24 including the taking of an order for future delivery.

1 (f) “Traveling sales crew” means a group of 3 or more traveling sales crew
2 members, not including an immediate family member of a traveling sales crew
3 operator.

4 (g) “Traveling sales crew activities” means the sale of goods or services to
5 consumers from house to house or on any street or related support work, including
6 operating a motor vehicle.

7 (h) “Traveling sales crew member” means a person who engages in traveling
8 sales crew activities as part of or in association with a traveling sales crew, who
9 travels with the traveling sales crew overnight away from his or her permanent place
10 of residence, and who maintains no fixed place of local residence or fixed retail
11 establishment in this state. “Traveling sales crew member” does not include a person
12 who maintains a fixed place of local residence or a fixed retail establishment in this
13 state, who is a reseller of goods that the person buys at wholesale and to which the
14 person takes title, or who sells services that are regulated by the office of the
15 commissioner of insurance of the federal communications commission.

16 (i) “Traveling sales crew operator” means a person who uses a traveling sales
17 crew to engage in traveling sales crew activities on the person’s behalf.

18 **(2) TRAVELING SALES CREW OPERATOR REGISTRATION.** (a) *Registration required.*
19 No person may use a traveling sales crew to engage in traveling sales crew activities
20 on the person’s behalf or recruit an individual to work as a traveling sales crew
21 member unless the person first obtains a certificate of registration from the
22 department. To obtain a certificate of registration, a person shall file with the
23 department a written application under par. (b), meet the standards specified in par.
24 (c) for issuance of a certificate of registration, and pay a registration fee determined
25 by the department by rule promulgated under sub. (8).

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

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

7 2. The social security number or federal employer identification number of the
8 applicant as provided in sub. (6) (a).

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

13 (c) *Issuance of registration.* Subject to sub. (6) (b) and (c), after completing any
14 investigation that the department considers appropriate, the department shall issue
15 a certificate of registration to the applicant if the department determines that the
16 applicant meets the standards under this section and rules promulgated under sub.
17 (8) for issuance of a certificate of registration. Notwithstanding ss. 111.321, 111.322,
18 and 111.335, the department may deny, suspend, revoke, or refuse to renew a
19 certificate of registration if the department determines that the applicant or
20 registrant has been convicted of any crime.

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

23 2. Unless earlier suspended or revoked, a certificate of registration expires 12
24 months after its date of issuance. The department, in its discretion, may temporarily

1 extend a certificate of registration if the registrant files an application for temporary
2 extension not less than 30 days before the expiration of the certificate of registration.

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

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

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

16 **(3) TRAVELING SALES CREW MEMBER PERMIT.** (a) *Permit required.* No person may
17 be permitted to work as a traveling sales crew member unless the traveling sales
18 crew operator on whose behalf the person will be working first obtains from the
19 department a permit for the person. To obtain a permit, the traveling sales crew
20 operator shall file with the department on behalf of the applicant a written
21 application under par. (b) and pay a permit fee determined by the department by rule
22 promulgated under sub. (8) and the applicant shall meet the standards specified in
23 par. (c) for issuance of a permit.

24 (b) *Application for permit.* To obtain a permit for an applicant, a traveling sales
25 crew operator shall file with the department on behalf of the applicant a written

1 application prescribed by the department by rule promulgated under sub. (8) that
2 contains all of the following information:

3 1. The social security number of the applicant as provided in sub. (6) (a).

4 2. Any other information that the department considers necessary for the
5 protection of the health, safety, and welfare of the traveling sales crew members
6 working on behalf of the traveling sales crew operator, the consumers of goods or
7 services sold by those members, and the public.

8 (c) *Issuance of permit.* Subject to sub. (6) (b) and (c), after completing any
9 investigation that the department considers appropriate, the department shall issue
10 a permit to the applicant if the department determines that the applicant meets the
11 standards under this section and rules promulgated under sub. (8) for issuance of a
12 permit. Notwithstanding ss. 111.321, 111.322, and 111.335, the department may
13 deny, suspend, revoke, or refuse to renew a permit if the department determines that
14 the applicant or permit holder has been convicted of any crime.

15 (d) *Permit; transfer, expiration, extension, and renewal.* 1. A permit is not
16 transferable or assignable.

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

22 3. A traveling sales crew operator may renew the permit of a permit holder who
23 is working on behalf of the traveling sales crew operator by filing with the
24 department an application under par. (b) and paying the renewal fee determined by
25 the department by rule promulgated under sub. (8). The department shall renew the

1 permit if the permit holder meets the standards specified in par. (c) for renewal of a
2 permit.

3 (e) *Notice of changes; amendment of permit.* 1. If during the period for which
4 a permit is in effect any change occurs in any of the information provided to the
5 department under par. (b), the traveling sales crew operator on whose behalf the
6 permit holder is working shall notify the department of that change within 30 days
7 after the change occurs.

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

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

18 2. A traveling sales crew member shall carry at all times while engaging in
19 traveling sales crew activities the member's permit and identification card and shall
20 promptly produce that permit and identification card upon the request of any deputy
21 of the department, law enforcement officer, or person with whom the member is doing
22 business.

23 (g) *Validity of permit; compliance with local ordinances.* A permit is valid in
24 every municipality in this state, but the issuance of a permit does not exempt a
25 traveling sales crew operator or member from compliance with any municipal

1 ordinance that requires the operator or member to obtain a solicitor's license or that
2 prohibits the sale of goods or services to consumers from house to house, on any
3 street, or in any other place that is open to the public.

4 **(4) OBLIGATIONS OF TRAVELING SALES CREW OPERATORS TO MEMBERS.** (a) *Disclosure*
5 *statement.* At the time a person is recruited to work as a traveling sales crew member,
6 the traveling sales crew operator shall provide the person with a written disclosure
7 statement that includes all of the following information:

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

10 2. The compensation to be paid.

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

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

13 5. The period of engagement.

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

17 (b) *Records.* A traveling sales crew operator shall, with respect to each
18 traveling sales crew member working on behalf of the traveling sales crew operator,
19 make, keep, and preserve for 3 years after the end of a pay period all of the following
20 information:

21 1. The basis on which compensation is paid.

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

24 3. The number of hours worked.

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

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

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

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

10 (d) *Deductions; cost of business expenses.* A traveling sales crew operator may
11 deduct from a traveling sales crew member's compensation the reasonable cost to the
12 operator of furnishing board, lodging, or other facilities to the member if the board,
13 lodging, or other facilities are customarily furnished by the operator to its members
14 and if the amount deducted does not exceed the fair market value of the board,
15 lodging, or other facilities and does not include any profit to the operator. Except as
16 provided in this paragraph, a traveling sales crew operator may not impose on any
17 traveling sales crew member any of the traveling sales crew operator's business
18 expenses, including the cost of maintaining and operating a motor vehicle that is
19 used to transport traveling sales crew members.

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

22 1. Ensure that each motor vehicle that the operator uses or causes to be used
23 to transport a traveling sales crew member conforms to all applicable state and
24 federal safety standards.

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

4 3. Have in force, for each motor vehicle that is used to transport a traveling
5 sales crew member, a policy of insurance or a liability bond that insures the operator,
6 in an amount prescribed by the department by rule promulgated under sub. (8),
7 against liability for damages to persons and property arising out of the ownership
8 or operation of the motor vehicle for that purpose or out of causing the motor vehicle
9 to be operated for that purpose.

10 (f) *Housing safety.* A traveling sales crew operator shall ensure that any facility
11 or property that is used to house a traveling sales crew member complies with all
12 federal, state, and local safety and health standards that are applicable to the facility
13 or property. If the facility or property is not owned or controlled by the traveling sales
14 crew operator, the operator shall obtain verification that the owner or operator of the
15 facility or property is licensed and insured in accordance with all applicable state and
16 local laws prior to housing any traveling sales crew member in the facility or
17 property.

18 **(5) PROHIBITED PRACTICES.** No traveling sales crew operator or any other person
19 on behalf of a traveling sales crew operator may do any of the following:

20 (a) Permit to work as a traveling sales crew member a person under 18 years
21 of age or permit to work as a traveling sales crew member a person 18 years of age
22 or over who has been adjudged incompetent under ch. 54 without the permission of
23 the person's guardian.

24 (b) Require a traveling sales crew member to engage in any in-person sales or
25 solicitation activities before 9 a.m. or after 9 p.m.

1 (c) Require a traveling sales crew member to relinquish custody of any of his
2 or her personal property to the traveling sales crew operator, to any other traveling
3 sales crew member working on behalf of the operator, or to any other person.

4 (d) Prohibit or restrict a traveling sales crew member from contacting any
5 family member, friend, or other person while traveling with a traveling sales crew.

6 (e) Intentionally inflict or threaten to inflict any bodily harm on a traveling
7 sales crew member or damage to the property of a traveling sales crew member.

8 (f) Advise or counsel a traveling sales crew member to make false
9 representations to a person to whom he or she is offering goods or services for sale.

10 (g) Discharge or discriminate against any person for opposing a practice
11 prohibited under this section. Section 111.322 (2m) applies to discharge and other
12 discriminatory acts arising in connection with any proceeding under this section.

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

21 2. If an applicant who is an individual fails to provide the applicant's social
22 security number to the department or if an applicant who is not an individual fails
23 to provide the applicant's federal employer identification number to the department,
24 the department may not issue or renew a certificate of registration or permit to or
25 for the applicant unless the applicant is an individual who does not have a social

1 security number and the applicant submits a statement made or subscribed under
2 oath or affirmation as required under subd. 3.

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

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

13 (b) *Child support.* The department shall deny, suspend, refuse to renew, or
14 otherwise withhold a certificate of registration or permit for failure of the applicant
15 or registrant to pay court-ordered payments of child or family support, maintenance,
16 birth expenses, medical expenses, or other expenses related to the support of a child
17 or former spouse or for failure of the applicant or registrant to comply, after
18 appropriate notice, with a subpoena or warrant issued by the department of children
19 and families or a county child support agency under s. 59.53 (5) and related to
20 paternity or child support proceedings, as provided in a memorandum of
21 understanding entered into under s. 49.857. Notwithstanding s. 103.005 (10), an
22 action taken under this paragraph is subject to review only as provided in the
23 memorandum of understanding entered into under s. 49.857 and not as provided in
24 ch. 227.

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

7 **(7) ENFORCEMENT.** (a) *Criminal penalties.* 1. Any person who willfully and
8 knowingly violates this section, any rule promulgated under sub. (8), or any order
9 issued under this section or who hinders or delays the department in the
10 performance of its duties or hinders or delays any law enforcement officer in the
11 performance of his or her duties under this section may be fined not more than
12 \$10,000 or imprisoned for not more than one year in the county jail or both.

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

17 (b) *Forfeitures.* Any person who violates this section, any rule promulgated
18 under sub. (8), or any order issued under this section or who hinders or delays the
19 department in the performance of its duties or hinders or delays any law enforcement
20 officer in the performance of his or her duties under this section may be required to
21 forfeit \$10,000. Each day of continued violation constitutes a separate offense. In
22 determining the amount of a forfeiture under this paragraph, the court shall
23 consider the gravity of the violation and the previous record of the person in terms
24 of compliance with this section, any rules promulgated under sub. (8), and any orders
25 issued under this section.

1 (c) *Injunctive relief.* In addition to any other remedy under this subsection, if
2 the department determines that any person has violated this section, any rule
3 promulgated under sub. (8), or any order issued under this section or has hindered
4 or delayed the department in the performance of its duties or hindered or delayed any
5 law enforcement officer in the performance of his or her duties under this section, the
6 department may refer the matter to the attorney general or the district attorney of
7 the county in which the violation occurred, and the attorney general or district
8 attorney may bring a civil action for injunctive relief as may be appropriate to compel
9 compliance with this section, the rule, or the order or to permit the performance of
10 those duties. In addition to any injunctive relief ordered in an action under this
11 paragraph, the court, notwithstanding s. 814.01 (1), shall award to a party that
12 obtains the injunctive relief reasonable actual attorney fees and other actual costs
13 as may be incurred in the action.

14 (d) *Referral for prosecution.* The department may refer violations of this
15 section, of any rules promulgated under sub. (8), or of any orders issued under this
16 section for prosecution by the attorney general or the district attorney of the county
17 in which the violation occurred.

18 **(8) RULES.** The department shall promulgate rules to implement this section.
19 Those rules shall include all of the following:

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

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

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

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

3 **(9) NONAPPLICABILITY.** This section does not apply to the employment of a
4 person in a fund-raising sale for a nonprofit organization, as defined in s. 103.21 (2),
5 a public school, as defined in s. 103.21 (5), or a private school, as defined in s. 103.21
6 (4).

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

8 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
9 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.34, 103.455, 103.50,
10 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to 101.599 or 103.64 to
11 103.82.

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

13 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
14 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
15 103.34, 103.455, 103.50, 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to
16 101.599 or 103.64 to 103.82.

17 **SECTION 8. Nonstatutory provisions.**

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

