

WISCONSIN REGULATION OF TRAVELING SALES CREWS



Equal Rights Division



Are traveling sales crew employers required to carry worker's compensation insurance?

Yes. Wisconsin employers are required to provide worker's compensation insurance coverage with an insurance company licensed to write worker's compensation in Wisconsin. The insurance company must file the policy with the Wisconsin Compensation Rating Bureau. The Rating Bureau is located at 20700 W. Swenson Drive, Suite 100, Waukesha, WI 53186. The telephone number is (262) 796-4540 and its web page is <http://www.wcrb.org>. Under the Wisconsin Worker's Compensation Act, an employer must carry worker's compensation insurance if the employer:

1. Usually employs three or more full-time or part-time employees. The employer must have insurance immediately upon employing a third person; or
2. Employs one or more full-time or part-time employees to whom the employer has paid combined gross wages of \$500 or more in any calendar quarter for work done at one or more locations in Wisconsin. The employer must have insurance by the 10th day of the first month of the next calendar quarter.



As a homeowner, what should I do if a traveling sales crew member comes to my door?

Be cautious. The most common complaints from consumers include non-delivery of magazines or other products, non-receipt of refunds when requested, and incomplete receipts that make canceling orders impossible. Other complaints involve overpriced goods, with prices for products like magazine subscriptions running at double or triple what a consumer would pay directly through the publisher.

More serious are reports of violence or crime against homeowners by the salesperson. Across the country, burglary, sexual assault, and murder have been perpetrated against homeowners who opened their doors to salespeople. Never allow unknown salespeople into your home. One common tactic of gaining access to the home is asking for a drink of water or to use the bathroom. It is not rude to tell a salesperson no. It's much easier – and safer – to say "no" on the doorstep than to try to get the salesperson to leave once he or she is inside.

Keep in mind that some salespeople pose as college students or neighbors or falsely represent to be working for non-profit or religious groups in order to gain your trust and appear non-threatening. Be sure to ask for identification and supporting documentation.

If at any time during a door-to-door sales encounter you feel uncomfortable or you observe suspicious behavior in the neighborhood, contact your local law enforcement agency.

As a traveling sales crew member, what should I do if I feel my rights have been violated or my employer is violating the law?

Contact the Equal Rights Division, Labor Standards Bureau. We can help explain the law to you and help you determine if a violation is occurring. You can always speak to us anonymously if you wish. Our goal is to ensure that you are safe and being treated fairly by your employer.

If your employer or other crew members threaten you, or if you are the victim of violence, you should contact the police immediately.

If your employer is withholding food, money, or transportation, or if other threats to your physical safety arise as a result of your employment, you should contact the police. You may also contact the Department under these circumstances; we can assist you in contacting community and volunteer groups that provide assistance to traveling sales crew members.

EQUAL RIGHTS DIVISION

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Offices are open 7:45 a.m. to 4:30 p.m.
Monday thru Friday

The DWD is an equal opportunity service provider. If you have a disability and/or have civil rights questions and need this information in an alternate format or need it translated to another language, please contact us in Madison at (608) 266-6860 or in Milwaukee at (414) 227 4384.

<http://dwd.wisconsin.gov/er>



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What is a Traveling Sales Crew?

A traveling sales crew is 2 or more individuals who are employed as salespersons or in related support work, who travel together in a group, and who are absent from their permanent place of residence 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. "Traveling sales crew" does not include 2 or more individuals who are traveling together for the purpose of participating in a trade show or convention or 2 or more immediate family members who are traveling together for the purpose of selling consumer goods or services.

Traveling sales crews might be selling any kind of consumer good or service, but some of the more common types of sales involve magazine subscriptions and home security systems.

Non-profit organizations, such as schools or churches, doing fundraising sales are NOT considered traveling sales crews.

Why does Wisconsin regulate traveling sales crews?

Wisconsin Statute Section 103.34 (Malinda's Law) took effect on April 1, 2010. It was enacted for the protection of consumers and homeowners, as well as the employees of the traveling sales company, who are often young and can be vulnerable to abuse by their employers. The law is named after an 18-year-old woman killed in a van crash in Janesville, Wisconsin, on March 25, 1999 - she was one of 7 young people killed and 5 others who were severely injured - all part of a traveling sales crew.

In addition to protecting traveling sales crew workers from various abuses and safety code violations, the law seeks to decrease the potential for crime against homeowners by requiring, among other things, criminal background checks of workers going door-to-door in Wisconsin.

How does the law protect homeowners?

Malinda's Law requires businesses using traveling sales crews in Wisconsin to register with the Department of Workforce Development. As part of the registration process, such businesses must provide the Department with certain information, including:

- ♦ the name, address, and information about the conviction record of each company proprietor, managing partner, manager, or principal officer; each agent or representative who supervises or transports crew members; and each crew member;
- ♦ the driver's license number and date of birth of each crew member and for each person who supervises or transports crew members;
- ♦ a statement identifying each motor vehicle that will be used to transport crew members; and certification that such vehicles are in compliance with state and federal safety standards; and
- ♦ proof of insurance against liability for damages to persons or property.

In addition, employers must obtain worker permits for each crew member, who must in turn have their permit stamped by a municipal clerk and be able to show the permit upon request.

When engaged in sales activities, all employees, agents, and representatives of a traveling sales crew must carry and be able to show the following:

1. a copy of the certificate of registration issued to the employer;
2. a copy of the Department-issued worker permit that has been approved (stamped) by a municipal clerk; and
3. the Department-issued identification card.

Each of these measures assists the Department and law enforcement in identifying the individuals who may be knocking on doors and

gaining access to homes throughout Wisconsin. The law also prohibits door-to-door sales before 9AM or after 9PM.

How does the law protect traveling sales crew members?

Malinda's Law includes several provisions designed to protect the safety and rights of traveling sales crew members. Employers are **prohibited** from:

- ♦ employing traveling sales crew members under the age of 18;
- ♦ requiring any worker to engage in sales before 9AM or after 9PM;
- ♦ requiring a traveling sales crew worker to purchase any consumer goods or services solely from the employer or to pay any of the employer's business expenses;
- ♦ 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;
- ♦ abandoning a traveling sales crew worker who has been arrested and is being held in custody in connection with a violation of registration and worker permits or a local ordinance regulating that conduct;
- ♦ 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;
- ♦ prohibiting or restricting a traveling sales crew worker from contacting any family member, friend, or other person while traveling with a traveling sales crew;
- ♦ intentionally inflicting or threatening to inflict 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;

- ♦ 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; and
- ♦ discharging or discriminating against any person for opposing a practice prohibited under Malinda's Law.

Employers **must**:

- ♦ provide traveling sales crew members with a disclosure statement at the time of hire outlining the terms of employment;
- ♦ maintain and operate any motor vehicle used to transport a traveling sales crew worker in compliance with all state and federal laws;
- ♦ ensure that any hazardous materials are handled, stored, and transported in compliance with state and federal laws;
- ♦ pay all wages due to traveling sales crew members not less than semi-monthly (twice a month);
- ♦ provide a written statement with each wage payment itemizing the amount of gross and net pay and the amount of and reason for any deductions; and
- ♦ charge not more than fair market value for board, lodging, or other facilities.

