

January 30, 2014

To: Members of the Senate Committee on Judiciary and Labor  
From: Senator Glenn Grothman  
Re: Senate Bill 508

Wisconsin employment law currently requires certain employers to provide an employee at least twenty-four consecutive hours of rest in every seven consecutive days. We call this the “one day of rest in seven” provision.

Wisconsin law differs from the federal requirements. There is no federal “one day of rest” provision. The federal government says that as long as minimum wage and overtime requirements are met, there is no limitation on the number of consecutive days an employee may work. Also, only a handful of other states have this law on their books. This legislation brings us in line with federal law and most other states.

Wisconsin law does allow employers to apply for a waiver from DWD in certain circumstances, but the process takes time for both the employer and the Department of Workforce Development.

Recently, we have heard from businesses that have employees who want to work the additional time. We have also heard from employees that want to receive the additional wages and overtime that is provided when taking on extra hours. This bill allows an employee to voluntarily, in writing, choose to work without one day of rest in seven.

Employees are in a wide array of situations. Some individuals want to work as many hours as possible to save up for a trip, a new car, their children’s education or many other things. In order to do this currently they may have to work two or three jobs, with the additional jobs being minimum wage jobs. This bill gives workers flexibility and opportunity. They will be able to work more hours at one job, which will allow them to make more money with overtime than they would have made at the multiple jobs.

Please consider joining me in giving employees more say in their overtime work opportunities. This bill will give workers the freedom to make the decision that is best for their individual situations.

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Equal Rights Division  
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STATE OF WISCONSIN



Department of Workforce Development

Scott Walker, Governor  
Reginald J. Newson, Secretary  
John P. Conway, Division Administrator

February 7, 2012

**POST**

Toni Hansen, HR Manager  
**NESTLE USA**  
637 S PINE ST  
BURLINGTON WI 53105

Jeff Bandur, Business Agent  
Randy Monroe, Business Agent  
Teamsters Local 200  
6200 W. Bluemound Road  
Milwaukee, WI 53213

Dear Ms. Hansen:

Thank you for your February 1, 2012 letter in which the Teamsters Local 200 and Nestle USA jointly request the department issue Nestle USA a waiver of §103.85, WI Stats. (One Day of Rest in Seven Law) for its facility in Burlington, Wisconsin. §103.85, WI Stats. requires employers to provide employees of manufacturing and mercantile establishments 24 consecutive hours of rest from work in each calendar week. The department received this request on February 3, 2012, reviewed the request and now takes the following action on this request:

The Department of Workforce Development hereby grants a waiver of §103.85, WI Stats. to **NESTLE USA** for its facility at **637 S Pine Street, Burlington, Wisconsin** only for those employees who are represented by the Teamsters local 200. The waiver shall remain in place for the period from **February 06, 2012 through February 12, 2017**. The department also recognizes that the work week is Monday through Sunday, per the bargaining agreement, with Sunday being the seventh day of the work week.

Employees must be informed of the existence of this waiver and **copies of the waiver must be posted to all affected employees near time clocks and on bulletin boards** where the affected employees normally work. The department may request the employer furnish the department a list of employees **who chose** to work without rest and the weeks in which they worked without receiving the 24 consecutive hours of rest. The department can revoke the waiver upon seven days notice to the parties either by request of the employer, labor or if the department finds cause to revoke the waiver.

If you have any questions concerning the granting of this waiver please contact Steve Laesch Standards Section Chief at (608) 267-2495.

Sincerely,  
Labor Standards Bureau

Steve Laesch  
Chief, Labor Standards Compliance Section  
(608)267-2495  
[Steve.laesch@dwd.wisconsin.gov](mailto:Steve.laesch@dwd.wisconsin.gov)

cc: File, Count File



To: Members of the Senate Committee on Judiciary & Labor  
From: Chris Reader, WMC Director of Health and Human Resources Policy  
Date: January 30, 2014  
Regarding: **Support Senate Bill 508, 1 Day of Rest in 7**

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Wisconsin Manufacturers & Commerce (WMC) supports Senate Bill (SB) 508, which changes how some workers are able to exempt themselves from the state requirement that they have a day off per week. At its core this is a simple bill that is more of a paperwork reduction act than it is an actual change in policy.

Currently, Wisconsin Statute §103.85 mandates that factories and mercantile establishments allow most workers 1 day off during a 7 day period. The statute further specifies many jobs within factories and mercantile establishments the current law does not apply to, and it allows for the day-off to be waived with Department of Workforce Development (DWD) approval. DWD 275 lists additional specific jobs to which the §103.85 day-off requirement does not apply.

Employees in industries other than factories and mercantile establishments are not covered under §103.85. Rather than a day-off obligation, all industries not specified under §103.85 must follow the usual Fair Labor Standards Act (FLSA) overtime requirements. Under federal law and in the vast majority of states, FLSA is the governing overtime law for all industries, including factories and mercantile establishments.

As previously mentioned, §103.85 currently provides for DWD to waive the day-off requirement in response to a petition from the employer and employee. That routinely happens today.

In 2013, 169 waiver requests were made of DWD, and all 169 of the requests were granted.

Importantly, the waivers are always granted by DWD with the condition that the 7<sup>th</sup> day of work must be voluntary for each individual worker, and the evidence shows us that volunteer overtime is indeed what occurs. Complaints of forced overtime are virtually nonexistent. In 2013, DWD received a grand total of 8 complaints, only 1 of which was found to be an inadvertent infraction.

SB 508 simply eliminates the need for workers and employers to seek state permission every time there's a possibility for working seven straight days. In reality, what this means is if a company has a surge in sales and has a need for extra production hours, willing employees will be able to volunteer to work overtime without first asking the state for permission.



WISCONSIN MANUFACTURERS & COMMERCE

## Questions and Answers

### **What industries will SB 508 impact?**

Only factories and mercantile facilities are required to follow the current day-off requirement. Even within those, the current law does not apply to the following employees: janitors; watchmen; persons employed in the manufacture of butter, cheese or other dairy products or in the distribution of milk or cream; or in canneries and freezers; persons employed in bakeries, flour and feed mills, hotels, and restaurants; employees whose duties include no work on Sunday other than caring for live animals or maintaining fires, and any labor called for by emergency that could not reasonably have been anticipated.

Per DWD 275, in paper and pulp mills, the day-off requirement does not apply to superintendents or department heads whose work is supervisory and not manual. It does apply to machine operators in paper and pulp mills, but in those mills it does not apply to millwrights, electricians, pipe fitters, and other employees whose duties include not more than five hours of essential work on Sunday, making necessary repairs to boilers, piping, wiring or machinery.

### **Does the federal government have a similar law?**

No, the federal government does not have a day-off requirement. The Fair Standards Labor Act (FSLA) requires overtime pay of time and one-half for more than 40 hours of work per week. There is no limit on the total number of hours or days worked.

### **What do other states say about this law?**

The vast majority of states have no overtime requirements other than what is provided for in the FSLA. Only a handful of states have a provision similar to requiring a day off for certain employees. Of our neighbors, only Illinois has a similar law.

### **Won't this lead to forced overtime?**

No. The overtime must be voluntary, just like current law. There were only eight instances in 2013 of alleged violations. Only one of those complaints was found to be valid.

Employers strive to have strong community ties and favorable public images. If a company was continually forcing employees to work seven straight days and miss time with their families, those workers would find different jobs and the reputation of the employer would quickly deteriorate. That's clearly not in the best interest of the employer.

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*Founded in 1911, Wisconsin Manufacturers & Commerce is the state's chamber of commerce and largest business trade association representing more than 3,500 employers of every size and from every sector of the economy.*



WISCONSIN MANUFACTURERS & COMMERCE

**Why doesn't a company simply open a new production line or hire additional workers?**

That's a business decision that every company with increased sales faces. Sometimes it makes sense to install a new production line or hire additional workers. Other times, such as when it is unknown if a sales increase will sustain into the future, or when the increase is due to a contract with a known end date, it doesn't make financial sense to invest capital in new equipment, workers, and training, especially if the current workforce is willing to take on the added workload.

**Why is SB 508 necessary if the waivers are already granted?**

Like so many areas of employment law, Wisconsin is out of step with the rest of the country. It makes sense to bring our state in line with most other states and the federal government in this area.

There's no reason the state needs to approve when a worker can and cannot volunteer to work overtime. Eliminating the waiver requirement will save time and money for human resources departments and the Department of Workforce Development.

**How will the volunteer form work?**

It would be up to each employer to determine how to execute the form. Some employers might decide to have a form that employees would sign specific to each occurrence of overtime on a seventh day, others might have a form that covers a period of time, such as a quarter or a year. In either case, the form must be voluntarily signed by the employee, and each instance of working on the 7<sup>th</sup> day would be voluntary, as it is now.

**What recourse will workers have if they feel like they are being discriminated against for not volunteering to work overtime?**

As they can under current law, they will be able to contact the Department of Workforce Development and file a complaint. Employees cannot be compelled to violate the law and their legal protections do not change under SB 508.



**TO:** Members, Senate Committee on Judiciary and Labor  
**FR:** Scot Ross, Executive Director One Wisconsin Now  
**RE:** Senate Bill 508  
**DATE:** January 30, 2014

For nearly a century, Wisconsin has had a law on the books to protect workers by requiring at least 24 consecutive hours of rest in every 7 consecutive days of work.

Legislation before the Judiciary and Labor Committee today, Senate Bill 508, proposes repealing that law. Why?

According to the public comments of the author, Sen. Grothman, "all sorts of people want to work seven days a week."

But in response to an inquiry by the media, the Assembly lead author admitted that in fact it wasn't "lots" of people clamoring for repeal of this worker protection. It wasn't even "lots" of employers. In fact, according to the Assembly author Rep. Born, this bill exists at the behest of only one entity -- the special interest lobby, the Wisconsin Manufacturers and Commerce.

In reality it seems that only all sorts of big business lobbyists want this legislation.

That makes some sense. After all, claims that there is an outcry from workers to be freed from the oppression of the weekend are, on their face, spurious at best.

While there may be workers who would work seven straight days, it is more likely that it is out of a perceived economic necessity, not animus towards the weekend.

Certainly the legislature can find better uses for its time than rolling back laws that prevent the abuse of workers.

Sen. Grothman himself has publicly acknowledged that under his bill there would no provisions to prevent or otherwise sanction employers from compelling workers to "choose" to waive their right to time off.

If the motivation of the authors of this legislation is to truly help workers bring home a bigger paycheck, there are more effective alternatives to accomplish that objective than repealing workplace protections.

Why not hold a hearing on legislation to increase the state minimum wage instead? Or use a portion of the state surplus to undo the cuts made by Gov. Walker and the Republican majority to the Earned Income Tax Credit in 2011?

You could even restore the state's equal pay law to help protect the principle that people ought to earn the same wage for doing the same work, regardless of their gender or age.

While boosting the minimum wage, restoring equal pay protection or rescinding a tax hike on working families may not be on the to-do list for the big business lobby, any one of them would do a lot more for the working people in this state than repealing this modest protection of the weekend.

The choice is yours.

# Will Sandstrom Testimony against SB 508 I am more in love in love

The Humane Work Week for the world--the 8 hr. 5 day work week was begun, fought for and won by Gus Hall, aka Hallberg, aka Hallinen, and Oscar Sandstrom, aka Strom, aka Streamd, aka Strand. Reason for several names follows below.

But first, here is a brief resume of my life. In 1967 I was the first person to explain how hypermutation occurs at the chemical level in DNA to make immunoglobulins (antibodies) against an agent that the human has never encountered in its evolution. I sent article to journal Nature in London. Article was peer reviewed by Ceasar Milstein (deceased). He rejected it as I did not cite him in my 71 citations. He pilfered idea, added a bit of research, and soon received Nobel Prize!

I began going to Finland, Russia, Estonia, Latvia, E. Germany in late 1960s. Why Russia allowed me entry into Russia and nations under their control is mystery as Americans or westerners were not allowed entry back then. I went to find relatives, and what life was like in Karelia, Estonia, Latvia and E. German under Brezhshnev of Russia. In 1978, I helped Finland, Balts, and E. Germany get free. This I started by bringing in 1976 a research agreement between America and Finland to study how solar activity produces northern lights in Lapland. At first Russia would not allow the signing of the agreement. But after 2 years they allowed President Jimmy Carter and Finland's President Urho Kekkonen to sign agreement: This aided other nations to become free. Scroll to bottom of link, <http://legis.wisconsin.gov/lc/comtmats/files/sb0278.pdf>.

I have lived an interesting life, likely like no other in USA. Someone of note has contacted me to say I must write my autobiography. They said, I paraphrase, "Your life is far too interesting, full of so many significant happenings that you must write your life story so that people will know how Finns struggled for, originated, and gave to many peoples/nations the humane work week, what life you led, your good deeds, and how you helped free Finland and other nations".

Regarding the origin of the humane work week; In Finland and northern Russia in the 1890s, and earlier, the Finns, Finnic, and Finno-Ugric related tribes were used as slaves by Russian Tsars. They had to work 14 hr 7 day work week. They went on strike. It was a bitter strike. The Tsar was afraid he would be toppled by striking Finns, Karelians, Ingerians, Estonians, and other Finnic and Finno-Ugric tribes with the help of Sweden. So Tsar gave in. The Finns won a 8 hr 6 day work week. Then Finns came to MN and Mich, bringing along knowledge that strikes can win a shorter work week.

My granddad, Oscar Sandstrom, was an engineer. He knew that workers by striking can gain more humane treatment. So along with Gus Hall (Halberg) he led the iron miners in 1905-6 strikes to create a worker's union, and the humane work week in NE MN iron mines; and also with Finns in MI copper mines. The union was known as the International Workers of the World (IWW). They created the humane shorter week for most (all?) people in the world. The mine owners, as Carnegie and Mellon, hired Chicago and Detroit Scilian Mafia goons (hitmen) to go to MN and upper Mich to kill strike leaders. To hide, my granddad had to take on 4 last names, Sandstrom, Strom, Streamd, Strand, and 2 first names, Oscar and Alex.

He got "out of Dodge" as saying goes, actually Sparta, MN in 1907. Like many Finns who were "blacklisted" (losing jobs or not hired for employment), he had to start a small farm in the wilderness: It was 100 miles north of Duluth, MN. He built a big log cabin, barn, and sauna. But he could not finish adding more rooms to the log cabin as he died of TB in 1913 when my dad