



STATE SENATOR LaTonya Johnson

WISCONSIN STATE SENATE

6TH DISTRICT

**Assembly Committee on Consumer Protection
Testimony on 2017 Assembly Bill 507
October 24, 2017**

Chairman Duchow and members of the Assembly Committee on Consumer Protection, thank you for allowing me to testify on 2017 Assembly Bill 507 today. I believe this legislation, known as the "Lemonade Stand Bill," is a common-sense proposal that removes unnecessary roadblocks for children who wish to engage in the all-American activity of setting up lemonade or similar stands in their neighborhoods.

Assembly Bill 507 allows minors to operate temporary stands without a permit or license. The bill defines "stand operated by a minor" as a temporary, occasional establishment operated on private property by children under age 18 that grosses less than \$1,000 per year.

The bill exempts stands operated by minors from needing a Food Processing Plant License or Retail Food Establishment License, which cost each \$95 per year and \$60 per year, respectively. The bill also says that local municipalities may not prohibit a minor from operating a stand or to require a permit or license for a minor operating a stand.

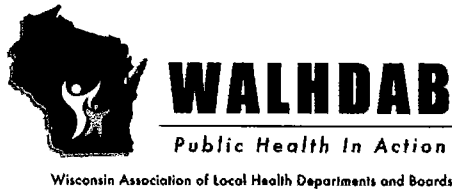
I do not believe that we should be charging children \$155 in order to legally operate a lemonade stand, and we should not leave those children operating unpermitted stands in violation of state law.

I am by no means anti-regulation, but like many things, regulation requires a balance between public health and safety and entrepreneurial spirit, with a dash of common sense. I believe that this bill reflects both common sense and poses minimal risk to the public.

I understand that some stakeholders may be concerned that children could sell potentially hazardous food products out of their stands, and while that is possible, I don't think that makes it likely. I think this is an exception to the current permitting process that is worth making for our kids to have this traditional childhood experience without running afoul of the law or having to pay \$155.

That said, my co-author and I are willing to consider potential amendments to alleviate these health concerns, as long as they do not throw up unnecessary roadblocks for children who wish to engage in this All-American activity.

Once again, thank you allowing me to testify on this legislation and for your consideration of this common-sense proposal.



October 24, 2017

Assembly Committee on Consumer Protection Testimony

Good Morning Chairwoman Duchow and members of the Assembly Committee on Consumer Protection. Thank you for allowing me the chance to testify on Assembly Bill 507, which has been named "The Lemonade Stand Bill" by the bill authors.

Lemonade stands are a favorite childhood pastime and common sight in neighborhoods during the summer season. Most of us have fond memories of setting up and running a lemonade stand in our youth, and many parents continue that tradition today. Many children run lemonade stands as a way to raise or save money, and it gives them a great opportunity to learn entrepreneurial skills.

I am a proud member of the Wisconsin Public Health Association (WPHA) and the Wisconsin Association of Local Health Departments and Boards (WALHDAB). I do not have a problem with children operating lemonade stands, however, as a local public health professional, I have concerns with AB 507 as it is currently written.

Even though AB 507 is being called the "Lemonade Stand Bill," it does not specifically refer to lemonade stands or designate what can be sold anywhere in the bill. The bill allows "a stand or other location at which goods are sold directly to consumers, that operates on a temporary, occasional basis, that is operated solely by a person or persons under the age of 18," which is very vague in scope. This language essentially allows minors to operate a temporary stand without a permit or license to sell just about anything. My main concern is that this broad language allows for minors to sell potentially hazardous foods and perishable goods that could have negative public health impacts.

In my work regulating retail food establishments I have seen many unlicensed, unregulated temporary food stands over the years. One in particular stands out, a well-intentioned mother of three set up a food stand in her front yard on a hot summer day. She was hoping to bring in some extra money over the weekend selling grilled chicken sandwiches while her kids played in the yard. When we received the complaint of an unlicensed vendor the inspector investigated to find that the woman had raw chicken in a cooler, where the ice had long melted, at 60-65 degrees F. She had no appropriate means to wash her hands, only wet wipes, and was handling both the raw chicken, buns and playing with her children. As a food safety professional your heart just stops when you see this set up and you take immediate action to eliminate the significant health risks. When the inspector explained the food safety concerns and the risks involved in how she was operating. The woman was very cooperative and apologetic, and explained she didn't understand food safety.

When a vendor is licensed or permitted to prepare or sell potentially hazardous foods they receive food safety education, we provide resources and are able to inspect to protect consumers. Under AB 507 this would not be required.

I want to be clear that I am not opposed to children operating lemonade stands while being supervised by their parents. I believe my concern can be addressed and the intent of the bill can be achieved through an amendment that includes language that prohibits the sale of potentially hazardous foods as defined in Chapter ATCP 75 Appendix in the Wisconsin Food Code. This simple fix would allow children to operate a lemonade stand and also ensure public health and safety by prohibiting the sale of foods that can lead to public health and safety issues from food that is undercooked or improperly held at a suitable temperature.

Chairwoman Duchow, I request you and the committee support an amendment to AB 507 that protects public health and safety by prohibiting the sale of potentially hazardous foods as defined by Wisconsin Food Code. That way the goal of the bill is achieved and public health concerns are addressed. If an amendment is not possible, I ask you to oppose this bill.

Thank you for your time. I am happy to answer any questions at this time.

ATCP 75 - Wisconsin Food Code

Potentially Hazardous Food (Time/Temperature Control for Safety Food).

(1) "Potentially hazardous food (time/temperature control for safety food)" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(2) "Potentially hazardous food (time/temperature control for safety food)" includes:

(a) An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seeds or sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation; and

(b) Except as specified in Subparagraph (3) (d) of this definition, a food that because of the interaction of its aw and pH values is designated as Product Assessment Required (PA) in Table A or B of this definition: - See PDF for table PDF - See PDF for table PDF

(3) "Potentially hazardous food (time/temperature control for safety food)" does not include:

(a) An air-cooled hard-boiled egg with shell intact, or an egg with shell intact that is not hard-boiled, but has been pasteurized to destroy all viable salmonellae;

(b) A food in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(c) A food that because of its pH or aw value, or interaction of aw and pH values, is designated as a non-PHF/non-TCS food in Table A or B of this definition;

(d) A food that is designated as Product Assessment Required (PA) in Table A or B of this definition and has undergone a Product Assessment showing that the growth or toxin formation of pathogenic microorganisms that are reasonably likely to occur in that food is precluded due to:

(i) Intrinsic factors including added or natural characteristics of the food such as preservatives, antimicrobials, humectants, acidulants, or nutrients,

(ii) Extrinsic factors including environmental or operational factors that affect the food such as packaging, modified atmosphere such as reduced oxygen packaging, shelf life and use, or temperature range of storage and use,

(iii) A combination of intrinsic and extrinsic factors; or

(e) A food that does not support the growth or toxin formation of pathogenic microorganisms in accordance with one of the Subparagraphs (3) (a) to (3) (d) of this definition even though the food may contain a pathogenic microorganism or chemical or physical contaminant at a level sufficient to cause illness or injury.