

## When Good People Disagree: The Case of the Amish and State Building Codes

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Senator Vinehout received contacts from Old Order Amish families who are facing court cases because their religious beliefs prevent them from complying with installation of smoke and carbon monoxide detectors. Local officials have concerns about the homes not having these safety devices, particularly because the Amish burn wood to heat their homes and use gas lanterns.

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EAU CLAIRE - “We want to protect our religious convictions against modern technology and preserve the Heritage our Forefathers handed down on us and our children,” the man from Springfield Township recently wrote me.

“We live a humble life, therefore we also want humble houses to live in,” he wrote.

He explained he didn’t hire contractors, install electrical wiring, bathrooms, septic mounds, smoke alarms and carbon monoxide detectors. He asked me to exempt his Amish community members from the state building codes.

“Our Desire is to be good neighbors and live in Peace with our non-Amish neighbors.”

But peace is not what is facing several Amish families who, according to an Eau Claire Leader-Telegram (ECLT) article, are “butting heads with modern society in Eau Claire County”.

At issue is the county's enforcement of state law requiring, among other things, carbon monoxide and smoke detectors in new homes. Firefighters and others are concerned the Amish homes, typically heated with wood and lighted with gas lanterns, are particularly susceptible to fire.

Another ECLT article quoted Supervisor Mark Olson, a retired firefighter, saying to his fellow Eau Claire County Board members, "a simple thing that helps save lives isn't too much to ask of any people."

One Amish family was already evicted from the home they built and moved out of state.

Advocates for the Amish with whom I spoke tell me more families are planning to move to another state that is "more hospitable to their beliefs".

Wisconsin has the fourth largest Amish population in the United States. Western Wisconsin is home to the largest communities - the largest is in Cashton. Nearly every county I represent has fairly large Amish communities and I estimate 1,000 Amish live in our Senate District.

Just like the rest of us, not all Amish are the same. The communities most concerned about complying with the building code are the Old Order Amish.

Members of the Old Order Amish and their advocates wrote and called me asking for help. Earlier this year, in response to their request, I introduced a bill to exempt those of certain bona fide religious denominations from laws regulating home construction.

I heard from several residents who didn't like the bill I introduced. They strongly felt everyone should follow the same rules. Local officials asked me, "Where will this end? What if I set up my own religion?"

Evidently a number of legislators also disagreed with me. Only two of my 131 colleagues agreed to co-sponsor my bill – one Democrat and one Republican. The bill didn't even receive a public hearing.

Clearly this approach wasn't going to solve the problem. So I went back to the drawing board. I met with Legislative Council attorneys and those skilled in drafting legislation. I spoke with local leaders and advocates for the Amish. Each time I asked what they thought would be a good solution.

Meanwhile the Eau Claire County cases against the Amish were scheduled for an early August trial. I heard more Amish families are talking about leaving the state.

Legislative attorneys told me about prior court decisions related to the Wisconsin Constitution. Our constitution has a conscience clause that is stronger than federal law. Prior court decisions set out a test to determine when this conscience objection applies.

The test requires, in this case, the Amish person to prove he or she has sincerely held religious beliefs and their belief is burdened by the law. The state or in this case county must prove there is a compelling state interest and that interest cannot be served by a "less restrictive alternative".

Court cases provided several possible ways for me to write future legislation.

I share this story to demonstrate what happens when good and well-meaning people disagree. Solving thorny issues involves much research. Solutions involve a careful balance considering people's opinions and past court decisions. But the best solution also relies on common sense.

A baker I recently met in Plum City said to me, "Maybe we should ask the Amish to come up with a solution they can live with." This sounds like a great idea.

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