

1999 Assembly Bill 547

Date of enactment: **December 16, 1999**
Date of publication*: **December 30, 1999**

1999 WISCONSIN ACT 14

AN ACT *to repeal* 102.01 (2) (b); *to amend* 15.227 (4), 15.227 (11), 102.05 (1), 102.07 (7) (a), 102.07 (7) (b), 102.07 (12m), 102.077 (3), 102.16 (2) (d), 102.18 (3), 102.29 (8), 102.475 (title), 102.475 (1), 102.475 (8) (b) and 102.87 (9); and *to create* 102.475 (8) (am) and 102.475 (8) (dm) of the statutes; **relating to:** various changes to the worker's compensation law.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 15.227 (4) of the statutes is amended to read:

15.227 (4) COUNCIL ON WORKER'S COMPENSATION. There is created in the department of workforce development a council on worker's compensation appointed by the ~~labor and industry review commission~~ secretary of workforce development to consist of a member or designated employe of the department of workforce development ~~or the labor and industry review commission~~ as chairperson, 5 representatives of employers and 5 representatives of employes. The ~~commission~~ secretary of workforce development shall also appoint 3 representatives of insurers authorized to do a worker's compensation insurance business in this state as nonvoting members of the council.

SECTION 2. 15.227 (11) of the statutes is amended to read:

15.227 (11) SELF-INSURERS COUNCIL. There is created in the department of workforce development a self-insurers council consisting of 5 members appointed by the ~~labor and industry review commission~~ secretary of workforce development for 3-year terms.

SECTION 3. 102.01 (2) (b) of the statutes is repealed.

SECTION 4. 102.05 (1) of the statutes is amended to read:

102.05 (1) An employer who has had no employe at any time within a continuous period of 2 years shall be deemed to have effected withdrawal, which shall be effective on the last day of such period. An employer who has not usually employed 3 employes and who has not paid wages of at least \$500 for employment in this state in ~~any~~ every calendar quarter in a calendar year may file a withdrawal notice with the department, which withdrawal shall take effect 30 days after the date of such filing or at such later date as is specified in the notice. If an employer who is subject to this chapter only because the employer elected to become subject to this chapter under sub. (2) cancels or terminates his or her contract for the insurance of compensation under this chapter, that employer is deemed to have effected withdrawal, which shall be effective on the day after the contract is canceled or terminated.

SECTION 5. 102.07 (7) (a) of the statutes is amended to read:

102.07 (7) (a) Every member of ~~any~~ a volunteer fire company or fire department organized under ch. 213 ~~or any, a~~ legally organized rescue squad shall be deemed or a legally organized diving team is considered to be an employe of ~~such~~ that company, department ~~or~~, squad or

* Section 991.11, WISCONSIN STATUTES 1997-98: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

team. Every such member of a company, department, squad or team described in this paragraph, while serving as an auxiliary police officer at an emergency, shall also be deemed is also considered to be an employe of said that company, department ~~or~~, squad or team. If such a company, department ~~or~~, squad or team described in this paragraph has not insured its liability for compensation to its employes, the municipality or county within which such that company, department ~~or~~, squad or team was organized shall be liable for such that compensation.

SECTION 6. 102.07 (7) (b) of the statutes is amended to read:

102.07 (7) (b) The department may issue an order under s. 102.31 (1) (b) permitting the county within which a volunteer fire company or fire department organized under ch. 213, a legally organized rescue squad ~~or~~, an ambulance service provider, as defined in s. 146.50 (1) (c), or a legally organized diving team is organized to assume full liability for the compensation provided under this chapter of all volunteer members of that company, department, squad ~~or~~, provider or team.

SECTION 7. 102.07 (12m) of the statutes is amended to read:

102.07 (12m) A student of a public school, as described in s. 115.01 (1), or a private school, as defined in s. 115.001 (3r), while he or she is engaged in performing services as part of a school work training, work experience or work study program, and who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employe of a school district or private school that elects under s. 102.077 to name the student as its employe. This subsection does not apply after December 31, ~~1999~~ 2001.

SECTION 8. 102.077 (3) of the statutes is amended to read:

102.077 (3) This section does not apply after December 31, ~~1999~~ 2001.

SECTION 9. 102.16 (2) (d) of the statutes is amended to read:

102.16 (2) (d) For fee disputes that are submitted to the department before July 1, ~~2000~~ 2002, the department shall analyze the information provided to the department under par. (c) according to the criteria provided in this paragraph to determine the reasonableness of the disputed fee. The department shall determine that a disputed fee is reasonable and order that the disputed fee be paid if that fee is at or below the mean fee for the health service procedure for which the disputed fee was charged, plus 1.5 standard deviations from that mean, as shown by data from a data base that is certified by the department under par. (h). The department shall determine that a disputed fee is unreasonable and order that a reasonable fee be paid if the disputed fee is above the mean fee for the health service procedure for which the disputed fee was charged,

plus 1.5 standard deviations from that mean, as shown by data from a data base that is certified by the department under par. (h), unless the health service provider proves to the satisfaction of the department that a higher fee is justified because the service provided in the disputed case was more difficult or more complicated to provide than in the usual case.

SECTION 10. 102.18 (3) of the statutes is amended to read:

102.18 (3) A party in interest may petition the commission for review of an examiner's decision awarding or denying compensation if the department or commission receives the petition within 21 days after the department mailed a copy of the examiner's findings and order to the party's last-known address. The commission shall dismiss a petition which is not timely filed unless the ~~petition~~ petitioner shows probable good cause that the reason for failure to timely file was beyond the petitioner's control. If no petition is filed within 21 days from the date that a copy of the findings or order of the examiner is mailed to the last-known address of the parties in interest, the findings or order shall be considered final unless set aside, reversed or modified by the examiner within that time. If the findings or order are set aside by the examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the examiner the time for filing a petition commences with the date that notice of reversal or modification is mailed to the last-known address of the parties in interest. The commission shall either affirm, reverse, set aside or modify the findings or order in whole or in part, or direct the taking of additional evidence. This action shall be based on a review of the evidence submitted.

SECTION 11. 102.29 (8) of the statutes is amended to read:

102.29 (8) No student of a public school, as described in s. 115.01 (1), or a private school, as defined in s. 115.001 (3r), who is named under s. 102.077 as an employe of the school district or private school for purposes of this chapter and who makes a claim for compensation under this chapter may make a claim or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose. This subsection does not apply to injuries occurring after December 31, ~~1999~~ 2001.

SECTION 12. 102.475 (title) of the statutes is amended to read:

102.475 (title) Death benefit; law enforcement and correctional officers, fire fighters, rescue squad members, diving team members, national or state guard members and emergency management personnel.

SECTION 13. 102.475 (1) of the statutes is amended to read:

102.475 (1) SPECIAL BENEFIT. If the deceased employe is a law enforcement officer, correctional officer, fire fighter, rescue squad member, diving team member, national guard member or state defense force member on state active duty as described in s. 102.07 (9) or if a deceased person is an employe or volunteer performing emergency management activities under ch. 166 during a state of emergency or a circumstance described in s. 166.04, who sustained an accidental injury while performing services growing out of and incidental to that employment or volunteer activity so that benefits are payable under s. 102.46 or 102.47 (1), the department shall voucher and pay from the appropriation under s. 20.445 (1) (aa) a sum equal to 75% of the primary death benefit as of the date of death, but not less than \$50,000 to the persons wholly dependent upon the deceased. For purposes of this subsection, dependency shall be determined under ss. 102.49 and 102.51.

SECTION 14. 102.475 (8) (am) of the statutes is created to read:

102.475 (8) (am) "Diving team member" means a member of a legally organized diving team.

SECTION 15. 102.475 (8) (b) of the statutes is amended to read:

102.475 (8) (b) "Fire fighter" means any person employed by the state or any political subdivision as a member or officer of a fire department or a member of a volunteer department, including the state fire marshal and deputies ~~or a member of a legally organized rescue squad~~.

SECTION 16. 102.475 (8) (dm) of the statutes is created to read:

102.475 (8) (dm) "Rescue squad member" means a member of a legally organized rescue squad.

SECTION 17. 102.87 (9) of the statutes is amended to read:

102.87 (9) A department deputy or an officer who collects a forfeiture, penalty assessment, jail assessment, crime laboratories and drug law enforcement assessment, applicable ~~insured~~ uninsured employer assessment and costs under this section shall pay the money to the county treasurer within 20 days after its receipt. If the department deputy or officer fails to make timely payment, the county treasurer may collect the payment from the department deputy or officer by an action in the treasurer's name of office and upon the official bond of the department deputy or officer, with interest at the rate of 12% per year from the time when it should have been paid.

SECTION 18. Initial applicability.

(1) COVERAGE OF VOLUNTEER DIVING TEAM MEMBERS. The treatment of sections 102.07 (7) (a) and 102.475 (1) and (8) (am) of the statutes first applies to injuries occurring on the effective date of this subsection.

(2) COUNCIL ON WORKER'S COMPENSATION AND SELF-INSURERS COUNCIL. The treatment of section 15.224 (4) and (11) of the statutes first applies to members appointed to the council on worker's compensation and the self-insurers council on the effective date of this subsection.

(3) WITHDRAWAL FROM COVERAGE. The treatment of section 102.05 (1) of the statutes first applies to withdrawal notices filed under section 102.05 (1) of the statutes, as affected by this act, on the effective date of this subsection.

SECTION 19. Effective date.

(1) This act takes effect on January 1, 2000, or on the day after publication, whichever is later.