



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBa2148/1
GMM:jld:rs

**ASSEMBLY AMENDMENT 9,
TO SENATE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 67**

February 24, 2004 – Offered by Representative JOHNSRUD.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 3: before that line insert:

3 “1d. Page 1, line 10: delete “and power” and substitute “power”.

4 1g. Page 1, line 12: after “tubes” insert “; mandatory overtime hours worked by
5 health care workers employed by health care facilities; and providing penalties”.

6 1m. Page 2, line 1: delete lines 1 and 2 and substitute:

7 “**SECTION 1d.** 106.54 (8) of the statutes is created to read:

8 106.54 (8) The division shall receive complaints under s. 146.999 (4) of
9 violations of s. 146.999 (2) and (3) and shall process those complaints in the same
10 manner that employment discrimination complaints are processed under s. 111.39.

11 **SECTION 1g.** 111.322 (2m) (a) of the statutes is amended to read:

1 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
2 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 104.12,
3 109.03, 109.07, 109.075 ~~or~~, 146.997, or 146.999 or ss. 101.58 to 101.599 or 103.64 to
4 103.82.

5 **SECTION 1j.** 111.322 (2m) (b) of the statutes is amended to read:

6 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
7 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
8 103.455, 103.50, 104.12, 109.03, 109.07, 109.075 ~~or~~, 146.997, or 146.999 or ss. 101.58
9 to 101.599 or 103.64 to 103.82.

10 **SECTION 1m.** 111.337 (1) of the statutes is renumbered 111.337 (1r) (intro.) and
11 amended to read:”.”.

12 **2.** Page 1, line 3: substitute “**1r**” for “**1**”.

13 **3.** Page 1, line 5: delete that line and substitute:

14 “**SECTION 3m.** 111.91 (2) (t) of the statutes is created to read:

15 111.91 **(2)** (t) Hours of work above the maximum hours specified in s. 146.999
16 (2) for health care workers, as defined in s. 146.999 (1) (c), employed by a health care
17 facility, as defined in s. 146.999 (1) (b). Nothing in this paragraph prohibits a health
18 care facility from bargaining on fewer hours of work than the hours provided in s.
19 146.999 (2).

20 **SECTION 3r.** 146.999 of the statutes is created to read:

21 **146.999 Health care worker overtime. (1) DEFINITIONS.** In this section:

22 (a) “Department” means the department of workforce development.

23 (b) “Health care facility” means a facility, as defined in s. 647.01 (4); any
24 hospital, nursing home, community-based residential facility, county home, county

1 hospital, county infirmary, county mental health center, assisted living facility,
2 residential care apartment complex, rural medical center, hospice, treatment
3 facility, or other place licensed, certified, or approved by the department of health
4 and family services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.034, 50.35, 50.52,
5 50.90, 51.04, 51.08, or 51.09; an adult family home licensed or certified by the
6 department of health and family services or a county department under s. 50.032 or
7 50.033; a facility under s. 45.365, 51.05, 51.06, or 252.10 or under ch. 233; or a state
8 prison, county jail, or county house of corrections.

9 (c) "Health care worker" means an employee of a health care facility who is
10 involved in providing direct health care for patients or residents or in providing
11 clinical or laboratory services.

12 **(2) MANDATORY OVERTIME LIMITED.** Except in cases of unforeseeable emergency
13 in which a health care facility has first exhausted all other options or in cases in
14 which the health care worker consents, a health care facility may not require a health
15 care worker who is paid an hourly wage to work for more than a work shift of 8, 10,
16 or 12 hours that has been determined and agreed to before the performance of the
17 work or to work for more than 40 hours per week.

18 **(3) RETALIATION PROHIBITED.** A health care facility may not discharge or
19 discriminate against a health care worker in promotion, in compensation, or in the
20 terms, conditions, or privileges of employment for refusing to work for more than the
21 hours specified in sub. (2), opposing a practice prohibited under sub. (2), filing a
22 complaint or attempting to enforce any right under sub. (2), or testifying or assisting
23 in any action or proceeding to enforce any right under sub. (2).

24 **(4) ENFORCEMENT.** Any health care worker who is discharged or discriminated
25 against in violation of sub. (3) may file a complaint with the department, and the

1 department shall process the complaint in the same manner that employment
2 discrimination complaints are processed under s. 111.39. If the department finds
3 that a violation of sub. (3) has been committed, the department may order the health
4 care facility to take such action under s. 111.39 as will effectuate the purpose of this
5 section. Section 111.322 (2m) applies to discharge or other discriminatory acts
6 arising in connection with any proceeding under this subsection.

7 **(5) CIVIL PENALTY.** In addition to ordering a health care facility that has violated
8 sub. (3) to take such action as will effectuate the purpose of this section, the
9 department may require the health care facility to forfeit not more than \$1,000 for
10 a first violation, not more than \$5,000 for a violation committed within 12 months
11 of a previous violation, and not more than \$10,000 for a violation committed within
12 12 months of 2 or more previous violations. The 12-month period shall be measured
13 by using the dates of the violations that resulted in convictions.

14 **(6) POSTING OF NOTICE.** Each health care facility shall post, in one or more
15 conspicuous places where notices to employees are customarily posted, a notice in a
16 form approved by the department setting forth the rights of health care workers
17 under this section. Any health care facility that violates this subsection shall forfeit
18 not more than \$100 for each offense.

19 **SECTION 4p.** 154.12 of the statutes is created to read:".

20 **4.** Page 3, line 12: after that line insert:

21 "3m. Page 16, line 24: before "The treatment" insert "REFUSALS BASED ON MORAL
22 OR RELIGIOUS GROUNDS."."

23 **5.** Page 3, line 15: before "The treatment" insert "POWERS OF ATTORNEY FOR
24 HEALTH CARE AND PATIENT DECLARATIONS.".

