



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2009 Wisconsin Act 206**  
[2009 Senate Bill 522]

**Worker's Compensation**

2009 Wisconsin Act 206 makes changes to the state's worker's compensation law. The Act is the result of recommendations by the Worker's Compensation Advisory Council. The major provisions of the Act are summarized below.

- **Current law** provides that every person who usually employs three or more employees is subject to the worker's compensation law. The **Act** specifies that every person who usually employs three or more employees *for services performed in this state* is subject to the worker's compensation law.
- The **Act** provides that any volunteer fire fighter, first responder, emergency medical technician, rescue squad member, or diving team member while responding to a call for assistance, from the time of the call for assistance to the time of his or her return from responding to that call, including travel to and from any place to respond to and return from that call, but excluding any deviations for private or personal purposes, is performing service growing out of and incidental to employment.
- Under **current law**, the maximum weekly compensation rate for permanent partial disability is \$282. The **Act** increases the rate to \$292 for injuries occurring before January 1, 2011, and to \$302 for injuries occurring on or after January 1, 2011.
- Under **current law**, an employee who receives maximum weekly benefits for permanent total disability or continuous temporary total disability resulting from an injury that occurred prior to January 1, 1993, receives supplemental benefits in an amount that, when added to the regular benefit, equals \$450. The **Act** provides that supplemental benefits are available for employees who receive benefits for permanent total disability or continuous temporary total disability resulting from an injury that occurred prior to *January 1, 2001*. The Act also increases the maximum supplemental benefit amount to an amount that, when added to the regular benefit, equals \$582.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

- The **Act** removes the Social Security offset for temporary disability benefits payable during a period in which an injured employee is receiving vocational rehabilitation services.
- Under **current law**, the employer or insurer must pay the reasonable expense for burial, not exceeding \$6,000, in cases where the death of an employee proximately results from an injury that is covered under the worker's compensation law. The **Act** requires that the employer or insurer pay the *actual* expense for burial, not exceeding \$10,000.
- **Current law** provides that when an injury is sustained by a minor who is illegally employed, the employer is liable for disability benefits or actual loss of wages to the minor. The **Act** removes an employer's liability for actual loss of wages.
- The **Act** provides that an employer is not liable for temporary disability benefits during the employee's healing period if the employee has been convicted of a crime, is incarcerated, and is not available to return to a restricted type of work during the healing period.
- **Current law** provides that for a case of occupational deafness in which the date of injury is before April 1, 2008, beginning on April 1, 2014, an employer or the Department of Workforce Development (DWD) is not liable for the expense of any examination or test for hearing loss, any evaluation of such an exam or test, any medical treatment for improving or restoring hearing, or any hearing aid to relieve the effect of hearing loss unless it is determined that compensation for occupational deafness is payable. The **Act** changes the April 1, 2014, date to January 1, 2012.
- **Current law** provides that interest accrues on annual assessments that are not paid within 90 days after the date prescribed for payment. The **Act** provides that interest accrues on annual assessments that are not paid within 30 days.
- The **Act** provides that if a party claims that the employer or insurer has acted with malice or bad faith, the party must provide written notice stating with reasonable specificity the basis for the claim to the employer, the insurer, and DWD before DWD schedules a hearing on the claim of malice or bad faith.
- Under **current law**, an insurer or self-insured employer that disputes the reasonableness of a fee charged or the necessity of treatment provided by a health service provider must provide reasonable notice to the health service provider of the dispute. An employer or insurer that disputes the reasonableness of the amount charged for a prescription drug must provide notice to the pharmacist or practitioner of the dispute. The **Act** requires that the notices be in writing.
- **Current law** provides certain methods by which notice of policy cancellation or termination is sent to DWD or the Wisconsin Compensation Rating Bureau (WCRB). The **Act** requires that notice of policy cancellation or termination be sent to DWD or WCRB *in a medium approved by DWD*.
- Under **current law**, DWD may waive payments required of an uninsured employer, except the reimbursement required of an uninsured employer, if DWD determines that the sole reason for the uninsured employer's failure to be insured is that the uninsured employer was a victim of fraud, misrepresentation, or gross negligence by an insurance agent or insurance broker or by a person whom a reasonable person would believe is an insurance agent or insurance broker. The **Act** allows DWD to waive the reimbursement required of an uninsured employer if DWD determines that the sole reason for the uninsured employer's

failure to be insured is that the uninsured employer was a victim of fraud, misrepresentation, or gross negligence by an insurance agent or insurance broker or by a person whom a reasonable person would believe is an insurance agent or insurance broker.

***Effective Date:*** The Act takes effect on May 1, 2010.

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