



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1691/1
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2015 SENATE BILL 357

October 29, 2015 – Introduced by Senators SHILLING, LASSA, L. TAYLOR and WIRCH, cosponsored by Representatives MASON, OHNSTAD, POPE, SINICKI and C. TAYLOR. Referred to Committee on Labor and Government Reform.

1 **AN ACT** *to renumber and amend* 103.02; *to amend* 103.03; and *to create*
2 103.02 (3) and 103.023 of the statutes; **relating to:** overtime pay for law
3 enforcement officers employed by amusement or recreational establishments
4 and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Workforce Development (DWD) to promulgate rules requiring employers to pay employees 1.5 times their regular rates of pay for all hours worked in excess of 40 hours per week (overtime pay). Those rules, however, exempt from the overtime pay requirement: 1) employees of the state or a political subdivision of the state; and 2) employees employed by an amusement or recreational establishment that does not operate for more than seven months in a year or that in the preceding year had average receipts for any six months of that year that were not more than 33 1/3 percent of its average receipts for the other six months of that year (seasonal amusement or recreational establishment).

This bill prohibits DWD, in promulgating rules regarding overtime pay, from exempting from the application of the overtime pay requirement an employee who is employed as a law enforcement officer by an amusement or recreational establishment, including a seasonal amusement or recreational establishment.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 103.02 of the statutes is renumbered 103.02 (1) and amended to
2 read:

3 103.02 (1) No person may be employed or be permitted to work in any place of
4 employment or at any employment for such any period of time during any day, night,
5 or week, ~~as~~ that is dangerous or prejudicial to the person's life, health, safety, or
6 welfare.

7 (2) The department shall investigate, ascertain, determine, and fix such
8 reasonable ~~classification,~~ classifications, issue general or special orders, and
9 promulgate rules fixing a period of time, or hours of beginning and ending work
10 during any day, night, or week, ~~which shall~~ that may be necessary to protect the life,
11 health, safety, or welfare of any person, or to carry out the purposes of ss. 103.01 to
12 103.03. The department shall, by rule, classify such periods of time into periods to
13 be paid for at regular rates and periods to be paid for at the rate of at least ~~one and~~
14 ~~one-half~~ 1.5 times the regular rates. Such investigations, classifications, rules, and
15 orders shall be made as provided in s. 103.005 ~~and the penalties under s. 103.005 (12)~~
16 ~~shall apply to and be imposed for any violation of ss. 103.01 to 103.03.~~ Such orders
17 shall be subject to review in the manner provided in ch. 227. ~~Section 111.322 (2m)~~
18 ~~applies to discharge or other discriminatory acts arising in connection with any~~
19 ~~proceeding under this section.~~

20 **SECTION 2.** 103.02 (3) of the statutes is created to read:

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1 103.02 (3) The employment of any person in any employment or place of
2 employment at any time other than the permissible hours of labor under this section
3 shall be prima facie evidence of a violation of this section.

4 **SECTION 3.** 103.023 of the statutes is created to read:

5 **103.023 Hours of labor; law enforcement officers employed by**
6 **amusement or recreational establishments. (1) DEFINITIONS.** In this section:

7 (a) “Amusement or recreational establishment” includes an amusement or
8 recreational establishment that does not operate for more than 7 months in a year
9 or that in the preceding year had average receipts for any 6 months of that year that
10 were not more than 33 1/3 percent of its average receipts for the other 6 months of
11 that year.

12 (b) “Law enforcement officer” has the meaning given in s. 165.85 (2) (c).

13 **(2) OVERTIME PAY REQUIRED.** In promulgating rules under s. 103.02 (2)
14 classifying periods of time into periods to be paid for at regular rates and periods to
15 be paid for at a rate of at least 1.5 times the regular rates, the department may not
16 exempt from the application of those rules an employee who is employed as a law
17 enforcement officer by an amusement or recreational establishment and shall
18 require such an employee to be paid not less than 1.5 times the employee’s regular
19 rate of pay for all hours worked in excess of 40 hours per week.

20 **SECTION 4.** 103.03 of the statutes is amended to read:

21 **103.03 Violations; penalty.** ~~The employment of any person in any~~
22 ~~employment or place of employment at any time other than the permissible hours of~~
23 ~~labor shall be prima facie evidence of a violation of this section.~~ Any employer that
24 violates s. 103.02 or 103.023 is subject to the penalties under s. 103.005 (12). Every
25 day for each person employed, and every week for each person employed, during

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1 which any employer fails to observe or to comply with any order of the department,
2 or to perform any duty enjoined by ~~ss. 103.01 to 103.03~~ required by s. 103.02 or
3 103.023, shall constitute a separate offense. Section 111.322 (2m) applies to
4 discharge or other discriminatory acts arising in connection with any proceeding
5 under s. 103.02 or 103.023.

6 **SECTION 5. Initial applicability.**

7 (1) LAW ENFORCEMENT OFFICERS EMPLOYED BY AMUSEMENT OR RECREATIONAL
8 ESTABLISHMENTS. This act first applies to an employee who is affected by a collective
9 bargaining agreement that contains provisions inconsistent with this act on the day
10 on which the collective bargaining agreement expires or is extended, modified, or
11 renewed, whichever occurs first.

12 (END)