

1983 Senate Bill 349

Date of enactment: February 21, 1984
Date of publication: February 24, 1984

1983 Wisconsin Act 122

AN ACT to repeal 103.06 to 103.11; and to amend 15.227 (10), 101.04 (1), 101.655 (6) (a), 102.23 (1) (a), 111.39 (5) (b), 168.15 and 227.15 of the statutes, relating to various matters concerning the department of industry, labor and human relations (suggested as remedial legislation by the department of industry, labor and human relations).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of industry, labor and human relations, and introduced by the law revision committee under section 13.83 (1) (c) 4 of the statutes. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 15.227 (10) of the statutes is amended to read:

15.227 (10) FIRE PREVENTION COUNCIL. There is created in the department of industry, labor and human relations a fire prevention council appointed by the ~~labor and industry review commission~~ secretary of industry, labor and human relations.

NOTE: The department of industry, labor and human relations believes that members of the fire prevention council should be appointed by the secretary of industry, labor and human relations, rather than by the labor and industry review commission.

SECTION 2. 101.04 (1) of the statutes is amended to read:

101.04 (1) The commission shall issue its decision in any case where petition for review is filed under ch. 102, or 108 ~~or 949~~ or s. 40.65 (2), 56.07 (7), 56.21, 66.191, 101.22, 101.223 (4) or 111.39.

NOTE: This bill deletes an obsolete cross-reference. The labor and industry review commission is no longer responsible for claims review in the crime victim compensation program. The entire program was transferred from the department of industry, labor and human relations to the department of justice by chapter 189, laws of 1979.

SECTION 3. 101.655 (6) (a) of the statutes is amended to read:

101.655 (6) (a) No person may sell, distribute or install or cause to be sold, distributed or installed in this state a new gas appliance that is not equipped with a certified intermittent ignition device, beginning 24 months after any intermittent ignition device has been certified by the ~~commission~~ department under sub. (5) as feasible for the class of gas appliances to which the gas appliance belongs, but no earlier than July 1, 1980.

NOTE: Section 101.655 of the statutes provides that the department of industry, labor and human relations must develop specifications for certifying and certify gas appliance ignition devices. Section 101.655 (6) (a) of the statutes refers to certification by the labor and industry review commission and not by the department. This bill replaces that reference to the commission with a reference to the department since the department, not the commission, is responsible for the certification of these devices.

SECTION 4. 102.23 (1) (a) of the statutes is amended to read:

102.23 (1) (a) In such action a complaint shall be served with the summons. The complaint need not be verified, but shall state the grounds upon which a review is sought. Service upon a commissioner or agent authorized by the commission to accept service shall be deemed complete service on all parties, but there shall be left with the person so served as many copies of the summons and complaint as there are defendants, and the ~~department~~ commission shall mail one copy to each other defendant. If the summons and complaint are not filed within 6 months from date of service, such service is void.

NOTE: The procedure for initiating a petition for judicial review of a worker's compensation or unemployment compensation order entered by the labor and industry review commission is specified by section 102.23 of the statutes. Chapter 278, laws of 1979, amended the statute to provide that the labor and industry review commission, rather than the department of industry, labor and human relations, receives service of the summons and complaint in any judicial review of a worker's compensation or unemployment compensation order. This bill provides that the labor and industry review commission will send copies of any summons and complaint it receives to the other defendants.

SECTION 5. 103.06 to 103.11 of the statutes are repealed.

NOTE: Under section 103.06 of the statutes, no person may employ an illiterate minor over 17 years of age in any city, village or town in which a school of vocational, technical and adult education is maintained unless the minor regularly attends that school. An "illiterate minor" is defined for purposes of section 103.06 of the statutes to mean a minor who cannot read at sight and write legibly simple sentences in the English language. Sections 103.07 to 103.11 of the statutes set forth various duties of parents and employers regarding the employment of an illiterate minor and the penalties for violating those duties.

This bill repeals sections 103.06 to 103.11 of the statutes because, under current law, a person over 17 years of age is not a minor. The repealed sections have also proven to be unenforceable and may be discriminatory.

SECTION 6. 111.39 (5) (b) of the statutes is amended to read:

111.39 (5) (b) If no petition is filed within ~~20~~ 21 days from the date that a copy of the findings and order of the examiner is mailed to the last-known address of the respondent the findings and order shall be considered final for purposes of enforcement under sub. (4) (d). If a timely petition is filed, the commission, on review, may either affirm, reverse or modify the findings or order in whole or in part, or set aside the findings and order and remand to the department for further proceedings. Such actions shall be based on a review of the evidence submitted. If the commission is satisfied that a respondent or complainant has been prejudiced because of exceptional delay in the receipt of a copy of any findings and order it may extend the time another ~~20~~ 21 days for filing the petition with the department.

NOTE: Under current statutes, petitions to the labor and industry review commission for review of a decision by the department of industry, labor and human relations must be filed within 20 days in fair employment cases. This bill changes the filing time to 21 days. By changing the period from 20 to 21 days, the last day for filing the petition will never fall on a weekend.

SECTION 7. 168.15 of the statutes is amended to read:

168.15 Penalty. Every person who violates any provision of this chapter ~~may be fined not more than \$500 or be imprisoned for not more than 6 months or both shall forfeit not less than \$10 nor more than \$100 for each violation. Each day a person fails to comply with any provision of this chapter is a separate violation.~~

NOTE: This bill changes the penalty for violation of the oil inspection act from a criminal to a civil penalty.

SECTION 8. 227.15 of the statutes, as affected by 1983 Wisconsin Act 27, is amended to read:

227.15 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125 ~~and~~, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions ~~and~~, the commissioner of savings and loan and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

NOTE: This bill clarifies that those administrative decisions of the department of industry, labor and human relations which are subject to review by the labor and industry review commission must be appealed to that commission before being subject to judicial review. The decisions of the commission, but not the decisions of the department, are subject to judicial review. This change accords with current practice of the department.

SECTION 9. **Initial applicability.** The treatment of section 15.227 (10) of the statutes by this act applies to any appointment to the fire prevention council made on or after the effective date of this act.
