



## 2009 SENATE BILL 476

January 22, 2010 - Introduced by Senators COGGS, ERPENBACH, TAYLOR and HANSEN, cosponsored by Representatives JORGENSEN, MASON, SINICKI, VAN AKKEREN, PARISI, ZEPNICK, BERCEAU, FIELDS, MILROY, HINTZ, HIXSON, DEXTER, PASCH, TURNER, POPE-ROBERTS, SCHNEIDER, SMITH, SOLETSKI, YOUNG and VRUWINK. Referred to Committee on Labor, Elections and Urban Affairs.

1     **AN ACT** *to amend* 101.02 (20) (a) and 101.02 (21) (a); and *to create* 101.19 (1)  
2           (n), 101.25 and 101.255 of the statutes; **relating to:** certification of  
3           ironworkers, maximum and minimum numbers of certain individuals  
4           performing ironwork at construction sites, granting rule-making authority,  
5           and providing penalties.

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### *Analysis by the Legislative Reference Bureau*

With certain exceptions, under current law, the Department of Commerce (department) establishes and enforces occupational safety standards that apply to places of public employment in this state and the federal occupational safety and health administration (OSHA) establishes and enforces occupational safety standards that apply to places of nonpublic employment in this state. Currently, certain standards promulgated by the department and by OSHA apply to construction sites and other locations where ironwork is performed but the standards do not specifically require ironworkers to be certified or licensed.

This bill establishes programs, administered by the department, for the regulation and certification of ironworkers. These programs are subject to the department receiving all necessary approvals from the federal secretary of labor.

With certain exceptions, the bill requires any individual who performs work in this state as an ironworker to hold a master ironworker or journeyman ironworker certificate obtained from the department. Under the bill, an ironworker generally means any individual who positions and secures reinforcing rods or cables during

**SENATE BILL 476**

on-site construction of buildings or bridges; raises, places, or unites girders, columns, and other structural steel members; installs prefabricated, ornamental metalwork; erects precast girders during on-site construction of bridges; or rigs or raises wind turbines. The bill requires a master ironworker or journeyman ironworker to perform work consistent with department rules. In addition, the bill prohibits an employer, contractor, or subcontractor from allowing certain individuals to perform ironwork without a required ironworker certificate or in violation of department rules.

Under the bill, the department must administer a program for certification of master ironworkers and journeyman ironworkers. The bill establishes minimum criteria that an individual must satisfy in order to be certified as a master ironworker or journeyman ironworker. The bill also includes a grandfather provision that establishes separate criteria for an individual who applies for certification within one year after the bill takes effect.

Unless the grandfather provision applies, in order to be certified as a master ironworker, an individual must: 1) satisfactorily complete a written examination, unless the individual applies for recertification and satisfies specific work experience and training requirements; and 2) hold a valid journeyman ironworker certificate for at least one year before the date of application, unless the individual has successfully completed an approved ironworker apprenticeship program.

Similar requirements apply to an individual who applies for a journeyman ironworker certificate, except that the individual is not required to hold a valid journeyman ironworker certificate before the date of application. Rather, the individual must successfully complete an approved ironworker apprenticeship program or safely complete 8,000 hours of work in the ironworking trade. In addition, upon applying for recertification as a journeyman ironworker, the individual need only have completed one-half as many hours of training as a master ironworker in order to be exempt from the written examination requirement.

The bill requires the department to promulgate rules relating to ironwork. These rules must specify, among other things, the tasks that master ironworkers and journeyman ironworkers are permitted to perform. In addition, these rules must establish ironworker ratios, specifying a minimum number of master ironworkers that are required to provide work at a construction site and a maximum number of apprentice ironworkers and individuals training as ironworkers that are permitted to provide work at a construction site.

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

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

1           **SECTION 1.** 101.02 (20) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
2 is amended to read:

**SENATE BILL 476**

1           101.02 **(20)** (a) For purposes of this subsection, “license” means a license,  
2           permit, or certificate of certification or registration issued by the department under  
3           ss. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.147, 101.15 (2) (e),  
4           101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.25 (3), 101.63 (2) or (2m),  
5           101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,  
6           101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165,  
7           145.17, 145.175, 145.18, or 167.10 (6m).

8           **SECTION 2.** 101.02 (21) (a) of the statutes, as affected by 2009 Wisconsin Act 28,  
9           is amended to read:

10           101.02 **(21)** (a) In this subsection, “license” means a license, permit, or  
11           certificate of certification or registration issued by the department under s. 101.09  
12           (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g),  
13           101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.25 (3), 101.63 (2), 101.653, 101.73  
14           (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1)  
15           to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18,  
16           or 167.10 (6m).

17           **SECTION 3.** 101.19 (1) (n) of the statutes is created to read:

18           101.19 **(1)** (n) Certifying master ironworkers and journeymen ironworkers  
19           under s. 101.25 (3).

20           **SECTION 4.** 101.25 of the statutes is created to read:

21           **101.25 Master and journeyman ironworkers. (1) DEFINITION.** In this  
22           section, “ironworker” means an individual who does any of the following:

23           (a) Raises, places, or unites girders, columns, and other structural steel  
24           members.

**SENATE BILL 476****SECTION 4**

1 (b) Positions and secures reinforcing rods or post tensioning cables during  
2 on-site construction of buildings or bridges.

3 (c) Installs prefabricated, ornamental metalwork.

4 (d) Erects precast girders during on-site construction of bridges.

5 (e) Rigs or raises a turbine for a wind energy system as defined in s. 66.0403  
6 (1) (m).

7 **(2) CERTIFICATION.** (a) *Certificate required.* Except as provided in sub. (5), no  
8 individual may perform work as an ironworker in this state without a master  
9 ironworker or journeyman ironworker certificate obtained from the department.  
10 Except as provided in sub. (5), an individual with a master ironworker or journeyman  
11 ironworker certificate shall perform work as an ironworker consistent with the rules  
12 promulgated under sub. (3) (d).

13 (b) *Employer liability.* No employer may permit an employee to perform work  
14 in violation of par. (a).

15 (c) *Contractor and subcontractor liability.* No person who is under a contract  
16 to construct an improvement to land may permit an agent of the person, or an  
17 independent contractor under contract with the person, to perform work on the  
18 improvement in violation of par. (a).

19 **(3) ADMINISTRATION.** (a) *Master ironworkers.* Except as provided in sub. (4),  
20 the department shall administer a program for the certification of master  
21 ironworkers. The department may certify an individual as a master ironworker only  
22 if all of the following apply:

23 1. The individual satisfactorily completes a written examination regarding  
24 ironworking, unless the individual applies for recertification and provides sufficient  
25 evidence that the individual has safely completed at least 5,000 hours of work as a

**SENATE BILL 476**

1 master ironworker or journeyman ironworker during the 5-year period before the  
2 date of the application for recertification and has successfully completed at least 30  
3 hours of training approved by the department during the 5-year period before the  
4 date of the application for recertification.

5 2. The individual holds a valid journeyman ironworker certificate for at least  
6 one year before the date of the individual's application for certification as a master  
7 ironworker, unless the individual has successfully completed an ironworker  
8 apprenticeship program that is approved by the department of commerce and the  
9 department of workforce development.

10 (b) *Journeyman ironworkers.* Except as provided in sub. (4), the department  
11 shall administer a program for the certification of journeyman ironworkers. The  
12 department may certify an individual as a journeyman ironworker only if all of the  
13 following apply:

14 1. The individual satisfactorily completes a written examination regarding  
15 ironworking, unless the individual applies for recertification and provides sufficient  
16 evidence that the individual has safely completed at least 5,000 hours of work as a  
17 journeyman ironworker during the 5-year period before the date of the application  
18 for recertification and has successfully completed at least 15 hours of training  
19 approved by the department during the 5-year period before the date of the  
20 application for recertification.

21 2. The individual successfully completes an ironworker apprenticeship  
22 program that is approved by the department of commerce and the department of  
23 workforce development, or safely completes at least 8,000 hours of work in the  
24 ironworking trade, before the date of the individual's application for certification as  
25 a journeyman ironworker.

**SENATE BILL 476****SECTION 4**

1           (c) *Term.* A master ironworker certificate or journeyman ironworker certificate  
2 issued by the department shall be valid for a term of 5 years.

3           (d) *Rules.* The department shall promulgate rules to administer the program  
4 established under this subsection. The rules shall specify the tasks related to  
5 ironworking that an individual certified as a master ironworker may perform and  
6 that an individual certified as a journeyman ironworker may perform. To the extent  
7 feasible, the rules shall be consistent with national standards applicable to  
8 ironworkers. The department of commerce shall promulgate any rules with regard  
9 to approved ironworker apprenticeship programs in consultation with the  
10 department of workforce development.

11           (4) **FEDERAL APPROVAL.** The department shall submit to the federal secretary  
12 of labor a plan for the certification of ironworkers under this section, if required to  
13 do so under 29 USC 667 (b), and shall request the federal secretary of labor to approve  
14 the plan. The plan submitted by the department shall be consistent with all of the  
15 provisions of this section. If no approval is required under 29 USC 667 (b) or if an  
16 approval is granted and in effect, the department shall implement the program  
17 under this section. If approval is required under 29 USC 667 (b), the department may  
18 not implement the program under this section unless an approval is granted and in  
19 effect.

20           (5) **EXCEPTIONS.** (a) *Lack of federal approval.* Subsection (2) (a) does not apply  
21 if approval of the department's plan for the certification of ironworkers is required  
22 under 29 USC 667 (b) but is not granted and in effect.

23           (b) *Other exceptions.* Subsection (2) (a) does not apply to any of the following:

**SENATE BILL 476**

1           1. An individual who is receiving training as an ironworker, if the individual  
2 is under the direct supervision of an ironworker who holds a valid master ironworker  
3 certificate received from the department.

4           2. An individual who is enrolled in and performing tasks that are within the  
5 scope of an ironworker apprenticeship program that is approved by the department  
6 of commerce and by the department of workforce development.

7           3. An individual who is a member of a uniformed service, as defined in s. 6.22  
8 (1) (c), or who is a member of the U.S. merchant marine, if the individual is  
9 performing work for the uniformed service of which the individual is a member or for  
10 the U.S. merchant marine, respectively.

11           4. An individual who is performing ironwork on premises that are owned or  
12 leased by the individual.

13           5. An individual who is performing ironwork in an attempt to remedy an  
14 emergency.

15           6. An individual who is positioning and securing reinforcing rods during the  
16 construction of a road, sidewalk, or parking lot. Under this subdivision, the  
17 construction of a bridge is not the construction of a road.

18           7. An individual who is performing ironwork within the scope of his or her  
19 employment, if the individual is employed to do primarily any of the following:

20           a. Install, assemble, construct, or repair electrical work.

21           b. Install, adjust, repair, or dismantle fire protection and fire control systems.

22           c. Erect, install, or repair transmission poles, fabricated metal transmission  
23 towers, outdoor substations, switch racks, or similar electrical structures, electric  
24 cables, and related auxiliary equipment for high-voltage transmission and

**SENATE BILL 476****SECTION 4**

1 distribution power lines that are used to conduct energy between generating  
2 stations, substations, and consumers.

3 d. Install, repair, alter, or recondition gas distribution pipeline.

4 e. Install or repair residential potable water lines, gravity waste disposal  
5 systems inside curb or fence lines, plumbing fixtures, and plumbing appliances such  
6 as dishwashers and water heaters.

7 f. Lay out, assemble, install, or maintain pipe systems, pipe supports, and  
8 related hydraulic and pneumatic equipment for steam, hot water, heating, cooling,  
9 lubricating, or industrial production and processing systems.

10 **(6) PENALTIES.** Any person who violates sub. (2) may be fined not more than  
11 \$500 or imprisoned for not more than 3 months or both.

12 **SECTION 5.** 101.255 of the statutes is created to read:

13 **101.255 Ironworker ratios. (1) DEFINITIONS.** In this section:

14 (a) “Apprentice ironworker” means an individual who is enrolled in an  
15 ironworker apprenticeship program that is approved by the department of commerce  
16 and by the department of workforce development.

17 (b) “Master ironworker” means an individual who is certified as a master  
18 ironworker by the department of commerce under s. 101.25.

19 **(2) RULES.** Except as provided in sub. (3), the department shall promulgate  
20 rules specifying a minimum number of master ironworkers that are required to  
21 provide work at a construction site, and a maximum number of apprentice  
22 ironworkers and individuals training as ironworkers that are permitted to provide  
23 work at a construction site, in order to provide for the safety of individuals at the  
24 construction site. The department may vary the minimum and maximum numbers



**SENATE BILL 476**

1 established under the rules based upon the type of work being performed at the  
2 construction site.

3 **(3) FEDERAL APPROVAL.** The department shall submit to the federal secretary  
4 of labor a plan for enforcing the minimum and maximum numbers established under  
5 sub. (2), if required to do so under 29 USC 667 (b), and shall request the federal  
6 secretary of labor to approve the plan. The plan submitted by the department shall  
7 be consistent with all of the provisions of sub. (2). If no approval is required under  
8 29 USC 667 (b) or if an approval is granted and in effect, the department shall  
9 promulgate and enforce the rules required under sub. (2). If approval is required  
10 under 29 USC 667 (b), the department may not promulgate or enforce the rules  
11 required under sub. (2) unless an approval is granted and in effect.

**SECTION 6. Nonstatutory provisions.**

12 **(1) FEDERAL APPROVAL OF IRONWORKER PROGRAM.** No later than the first day of  
13 the 3rd month beginning after the effective date of this subsection, the department  
14 of commerce shall submit to the federal secretary of labor the plans required under  
15 sections 101.25 (4) and 101.255 (3) of the statutes, as created by this act, if required  
16 to do so under 29 USC 667 (b).  
17

18 **(2) SUBMISSION OF PROPOSED RULES.** No later than the first day of the 9th month  
19 beginning after the effective date of this subsection, the department of commerce  
20 shall submit in proposed form the rules required under sections 101.25 (3) and  
21 101.255 (2) of the statutes, as created by this act; and the fees permitted under  
22 section 101.19 (1) (n) of the statutes, as created by this act, to the legislative council  
23 staff under section 227.15 (1) of the statutes.

24 **(3) GRANDFATHER PROVISION; CERTIFICATION OF CERTAIN MASTER IRONWORKERS.**  
25 Except as provided in section 101.02 (20) (b) and (21) (b) of the statutes and

**SENATE BILL 476****SECTION 6**

1 notwithstanding section 101.25 (3) (a) of the statutes, as created by this act, if  
2 approval of the department of commerce's plan to certify ironworkers under section  
3 101.25 (4) of the statutes, as created by this act, is not required under 29 USC 667  
4 (b) or if such an approval is granted and in effect, the department shall certify as a  
5 master ironworker any individual who applies for a master ironworker certification  
6 within one year after the effective date of this subsection and who provides the  
7 department with sufficient evidence that the individual safely completed at least  
8 15,000 hours of work in the ironworking trade during the 15-year period before the  
9 date of the application for certification.

10 (4) GRANDFATHER PROVISION; CERTIFICATION OF CERTAIN JOURNEYMAN  
11 IRONWORKERS. Except as provided in section 101.02 (20) (b) and (21) (b) of the statutes  
12 and notwithstanding section 101.25 (3) (b) of the statutes, as created by this act, if  
13 approval of the department of commerce's plan to certify ironworkers under section  
14 101.25 (4) of the statutes, as created by this act, is not required under 29 USC 667  
15 (b) or if such an approval is granted and in effect, the department shall certify as a  
16 journeyman ironworker any individual who applies for a journeyman ironworker  
17 certification within one year after the effective date of this subsection and who  
18 provides the department with sufficient evidence of any of the following:

19 (a) That the individual, before the date of the application for certification,  
20 successfully completed an apprenticeship program for ironworking that is approved  
21 by the department of workforce development.

22 (b) That the individual safely completed at least 8,000 hours of work in the  
23 ironworking trade during the 8-year period before the date of the application for  
24 certification.

