



2009 ASSEMBLY BILL 21

February 5, 2009 - Introduced by Representative SCHNEIDER. Referred to
Committee on Workforce Development.

1 **AN ACT to amend** 111.322 (2m) (a) and 111.322 (2m) (b); and **to create** 103.88
2 and 106.54 (8) of the statutes; **relating to:** discharge from employment of a
3 passenger-for-hire vehicle operator solely on the basis of having been involved
4 in a single motor vehicle accident.

Analysis by the Legislative Reference Bureau

Under current law, the owner of a vehicle operated for the conveyance of passengers for hire is liable for all injuries and damage done by a person employed by the owner as an operator of the vehicle while operating the vehicle in the same manner as the operator would be liable.

This bill prohibits a person engaged in the business of operating a vehicle for the conveyance of passengers for hire (employer) from discharging from employment an individual who is employed by the employer to operate such a vehicle (operator) solely on the basis of the operator having been involved in a single motor vehicle accident. The bill also prohibits an employer from discharging or discriminating against an operator or other employee in promotion, in compensation, or in the terms, conditions, or privileges of employment for opposing the discharge of an operator in violation of the bill, for filing a complaint or attempting to enforce the right of an operator not to be discharged in violation of the bill, or for testifying or assisting in any action or proceeding to enforce that right.

An operator or other employee who is discharged or discriminated against in violation of the bill may file a complaint with the Department of Workforce Development (DWD), and DWD must process the complaint in the same manner that

ASSEMBLY BILL 21

employment discrimination complaints are processed under current law, which processing may include the ordering of back pay, reinstatement, costs, and attorney fees. In addition, an employer that discharges or discriminates against an operator or other employee in violation of the bill is debarred from being awarded a contract by a state agency or local governmental unit for three years after DWD or a court finds that the employer committed the violation.

For further information see the *state* 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.** 103.88 of the statutes is created to read:

2 **103.88 Discharge of passenger-for-hire vehicle operator. (1)**

3 DEFINITIONS. In this section:

4 (a) “Employer” means a person engaged in the business of operating a vehicle
5 for the conveyance of passengers for hire that employs at least one individual as an
6 operator.

7 (b) “Local governmental unit” has the meaning given in s. 66.0903 (1) (d).

8 (c) “Operator” means an individual who is employed by an employer to operate
9 a vehicle for the conveyance of passengers for hire.

10 (d) “State agency” has the meaning given in s. 103.49 (1) (f).

11 **(2) DISCHARGE ON BASIS OF SINGLE ACCIDENT PROHIBITED.** No employer may
12 discharge an operator from employment solely on the basis of the operator having
13 been involved in a single motor vehicle accident.

14 **(3) RETALIATION PROHIBITED.** An employer may not discharge or discriminate
15 against an operator or other employee in promotion, in compensation, or in the
16 terms, conditions, or privileges of employment for opposing a practice prohibited
17 under sub. (2), filing a complaint or attempting to enforce any right under sub. (2),

ASSEMBLY BILL 21

1 or testifying or assisting in any action or proceeding to enforce any right under sub.
2 (2).

3 (4) ENFORCEMENT. An operator or other employee who is discharged or
4 discriminated against in violation of sub. (2) or (3) may file a complaint with the
5 department, and the department shall process the complaint in the same manner
6 that employment discrimination complaints are processed under s. 111.39. If the
7 department finds that a violation of sub. (2) or (3) has been committed, the
8 department may order the employer to take such action under s. 111.39 as will
9 effectuate the purpose of this section. Section 111.322 (2m) applies to discharge or
10 other discriminatory acts arising in connection with any proceeding under this
11 subsection.

12 (5) DEBARMENT. In addition to ordering an employer that has violated sub. (2)
13 or (3) to take such action as will effectuate the purpose of this section, the department
14 shall distribute to all state agencies and local governmental units a list of all persons
15 that the department has found to have violated sub. (2) or (3) at any time in the
16 preceding 3 years. The department shall include with any name the address of the
17 person and shall specify when the person committed the violation. A state agency
18 or local governmental unit may not award any contract to the person unless
19 otherwise recommended by the department or unless 3 years have elapsed from the
20 date on which the department issued its findings or the date of final determination
21 by a court of competent jurisdiction, whichever is later.

22 **SECTION 2.** 106.54 (8) of the statutes is created to read:

23 106.54 (8) The division shall receive complaints under s. 103.88 (4) of violations
24 of s. 103.88 (2) and (3) and shall process those complaints in the same manner that
25 employment discrimination complaints are processed under s. 111.39.

ASSEMBLY BILL 21

1 **SECTION 3.** 111.322 (2m) (a) of the statutes is amended to read:

2 111.322 **(2m)** (a) The individual files a complaint or attempts to enforce any
3 right under s. 103.02, 103.10, 103.13, 103.28, 103.32, 103.455, 103.50, 103.88,
4 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to 101.599 or 103.64 to
5 103.82.

6 **SECTION 4.** 111.322 (2m) (b) of the statutes is amended to read:

7 111.322 **(2m)** (b) The individual testifies or assists in any action or proceeding
8 held under or to enforce any right under s. 103.02, 103.10, 103.13, 103.28, 103.32,
9 103.455, 103.50, 103.88, 104.12, 109.03, 109.07, 109.075, or 146.997 or ss. 101.58 to
10 101.599 or 103.64 to 103.82.

11 **SECTION 5. Initial applicability.**

12 (1) COLLECTIVE BARGAINING AGREEMENTS. This act first applies to an operator,
13 as defined in section 103.88 (1) (b) of the statutes, as created by this act, who is
14 affected by a collective bargaining agreement that contains provisions inconsistent
15 with this act on the day on which the collective bargaining agreement expires or is
16 extended, modified, or renewed, whichever occurs first.

17 **(END)**