

## 2001 ASSEMBLY BILL 499

September 19, 2001 – Introduced by Representatives LADWIG, VRAKAS, MONTGOMERY, J. FITZGERALD, URBAN, AINSWORTH, STARZYK, KESTELL, SUDER, OTT, ALBERS, NASS, MUSSER, GROTHMAN, OWENS and STONE, cosponsored by Senators ROESSLER, SCHULTZ, DARLING and HUELSMAN. Referred to Committee on Labor and Workforce Development.

- 1     **AN ACT *to amend* 102.58; and *to create* 102.03 (1) (dm) of the statutes; relating**  
2           **to:** adding as a condition for worker's compensation liability a condition that  
3           the employee's injury not result from the intoxication of the employee by alcohol  
4           beverages or use of a controlled substance or a controlled substance analog.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, an employer is liable for worker's compensation when an employee of the employer sustains an injury while performing services growing out of and incidental to employee's employment, the accident or disease causing the employee's injury arises out of the employee's employment, and the injury is not intentionally self-inflicted. Current law provides, however, that if the injury results from the intoxication of the employee by alcohol beverages or use of a controlled substance or a controlled substance analog the worker's compensation payable to the employee is reduced by 15%, except that the total reduction may not exceed \$15,000.

This bill eliminates the 15% or \$15,000 reduction in worker's compensation payable to an employee whose injury results from the intoxication of the employee by alcohol beverages or use of a controlled substance or a controlled substance analog. Instead the bill adds as a condition for *any* liability of an employee for worker's compensation a condition that the employee's injury not result from the intoxication of the employee by alcohol beverages or use of a controlled substance or a controlled substance analog.

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For further information see the *state and local* 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:***

**SECTION 1.** 102.03 (1) (dm) of the statutes is created to read:

102.03 (1) (dm) Where the injury does not result from the intoxication of the employee by alcohol beverages, as defined in s. 125.02 (1), or use of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m).

**SECTION 2.** 102.58 of the statutes is amended to read:

**102.58 Decreased compensation.** If injury is caused by the failure of the employee to use safety devices which that are provided in accordance with any statute or lawful order of the department and are adequately maintained, and the use of which is reasonably enforced by the employer, or if injury results from the employee's failure to obey any reasonable rule adopted and reasonably enforced by the employer for the safety of the employee and of which the employee has notice, ~~or if injury results from the intoxication of the employee by alcohol beverages, as defined in s. 125.02 (1), or use of a controlled substance, as defined in s. 961.01 (4), or a controlled substance analog, as defined in s. 961.01 (4m),~~ the compensation and death benefit provided in this chapter shall be reduced 15% but the total reduction may not exceed \$15,000.

**SECTION 3. Initial applicability.**

(1) INJURY RESULTING FROM INTOXICATION. This act first applies to an injury, as defined in section 102.01 (2) (c) of the statutes, resulting from the intoxication of an employee, as defined in section 102.07 of the statutes, by alcohol beverages, as

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1 defined in section 125.02 (1) of the statutes, or use of a controlled substance, as  
2 defined in section 961.01 (4) of the statutes, or a controlled substance analog, as  
3 defined in section 961.01 (4m) of the statutes, sustained on the effective date of this  
4 subsection.

5 (END)