

2001 DRAFTING REQUEST

Assembly Amendment (AA-AB505)

Received: **10/16/2001**

Received By: **malaigm**

Wanted: **10/16/2001**

Identical to LRB:

For: **DuWayne Johnsrud (608) 266-3534**

By/Representing: **Larry**

This file may be shown to any legislator: **NO**

Drafter: **malaigm**

May Contact:

Addl. Drafters:

Subject: **Employ Priv - worker's comp**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Worker's compensation; exception to exclusive remedy provision for coemployee defamation

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	malaigm 10/16/2001	jdyer 10/16/2001		_____			
/1			haugca 10/16/2001	_____	lrb_docadmin 10/16/2001	lrb_docadmin 10/16/2001	

FE Sent For:

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/?	malaigm	1/10/16 jld	CK 10-16	CK 10-16			

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WISCONSIN LEGISLATIVE COUNCIL STAFF

One East Main Street, Suite 401

P.O. Box 2536

Madison, WI 53701-2536

FAX # 608/266-3830

DATE: 10/16/01

NUMBER OF PAGES SENT, INCLUDING COVER PAGE: 4

[If pages are not all received or are illegible, please call 608/266-1304.]

PLEASE DELIVER TO: Gordon Malaise

FAX NUMBER: LRB Drafting

FROM: Bob Conlin
Leg. Council

MESSAGE: Gordon:

Here's the draft Fernbach worked on for Rep. Johnsrud. Rep. Johnsrud would like this turned into an amendment to the WG bill (AB 505) which is on the floor today.

If you have questions, let me know. Otherwise, Larry in Johnsrud's office knows about this.

Bob Conlin
6-2298



WISCONSIN LEGISLATIVE COUNCIL
STAFF MEMORANDUM

TO: REPRESENTATIVE DU WAYNE JOHNSRUD
FROM: Dan Fernbach, Senior Staff Attorney *DJ*
RE: WLCS: 0017/1, Relating to Providing an Exception to the Exclusive Remedy Provision Under the Worker's Compensation Law
DATE: November 27, 2000

Pursuant to your request, the attached draft, WLCS: 0017/1, creates an additional exception to the "exclusive remedy" requirements of Wisconsin's Worker's Compensation (WC) law.

PRESENT LAW

Under present s. 102.03 (2), Stats., an employee who suffers an on-the-job injury may only be compensated in accordance with the provisions of ch. 102, Stats., Wisconsin's WC law, which shall be the employee's "exclusive remedy" against the employer, any coemployee and the employer's WC insurance carrier.

However, s. 102.03 (2) contains *three exceptions* which permit an employee to maintain an independent lawsuit against a coemployee:

1. For an assault intended to cause bodily harm;
2. For negligent operation of a motor vehicle not owned or leased by the employer, or
3. If a governmental unit would be liable under a collective bargaining agreement or a local ordinance to pay judgments against employees.

PROVISIONS OF WLCS: 0017/1

WLCS: 0017/1 *creates an additional exception* to the above-described "exclusive remedy" provision of our WC law to allow an employee to maintain an independent cause of action against a

- 2 -

coemployee who has made a defamatory or libelous statement that causes emotional distress or physical harm to the employee.

Like the existing exceptions, the new exception allows a cause of action only against a cocmployee of the same employer, but not against the employer or the employer's WC insurer.

Attachment

Worker's Compensation: Exclusive Remedy Exception

WLCS: 0017/1

DF:tlu;ksm

11/27/2000

1 **AN ACT** to amend 102.03 (2) of the statutes; relating to: providing an exception to the
2 exclusive remedy provision under the worker's compensation law.

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

3 SECTION 1. 102.03 (2) of the statutes is amended to read:

4 102.03 (2) Where such conditions exist the right to the recovery of compensation under
5 this chapter shall be the exclusive remedy against the employer, any other employee of the
6 same employer and the worker's compensation insurance carrier. This section does not limit
7 the right of an employee to bring action against any coemployee for an assault intended to
8 cause bodily harm, or against a coemployee for negligent operation of a motor vehicle not
9 owned or leased by the employer, ~~or against a coemployee who makes a defamatory or libelous~~
10 statement causing emotional distress or physical injury to an employee, or against a
11 coemployee of the same employer to the extent that there would be liability of a governmental
12 unit to pay judgments against employees under a collective bargaining agreement or a local
13 ordinance.

14 (END)

Vertical line and markings on the left margin.

2001

Date (time) needed

Nov 11, 2001

LRBa 0751 / 1

AMENDMENT

amm: jld:

See form AMENDMENTS — COMPONENTS & ITEMS.

§ (A) AMENDMENT

TO S A AMENDMENT (LRBa /),
TO S A SUBSTITUTE AMENDMENT (LRBs /)
TO 2001 ~~SB SJR SR~~ (AB) ~~AJR AR~~ 505 (LRB /)

At the locations indicated, amend the bill as follows:
(fill ONLY if "engrossed" or "as shown by")

#. Page 8, line 12: after that line insert;

#. Page, line:

#. Page, line:

#. Page, line:

#. Page, line:

2m

Section # 102.03 (2) of the statutes is amended to read:

← score

2

102.03 (2) Where such conditions exist the right to the recovery of compensation under this chapter shall be the exclusive remedy against the employer, any other employee of the same employer and the worker's compensation insurance carrier. This section does not limit the right of an employee to bring action against any coemployee for an assault intended to cause bodily harm, or against a coemployee for negligent operation of a motor vehicle not owned or leased by the employer, or against a coemployee of the same employer to the extent that there would be liability of a governmental unit to pay judgments against employees under a collective bargaining agreement or a local ordinance. "

~~History: 1971 c. 148, 307, 324; 1975 c. 147 ss. 15, 54; 1977 c. 195, 272, 418; 1979 c. 278; 1981 c. 92; 1983 a. 98; 1985 a. 83; 1993 a. 49, 370, 490, 492.~~

(End) ✓

against a coemployee for a defamatory
 statement causing emotional distress
 or physical injury to the employee,