

2003 Senate Bill 508

Date of enactment:  
Date of publication\*:

## 2003 WISCONSIN ACT

AN ACT *to renumber* 103.01 (1); *to amend* 103.02 and 103.025 (2); and *to create* 103.01 (1g) of the statutes; **relating to:** an overtime pay exemption for providers of companionship services.

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

**SECTION 1.** 103.01 (1) of the statutes is renumbered 103.01 (1r).

**SECTION 2.** 103.01 (1g) of the statutes is created to read:

103.01 (1g) “Companionship services” mean services that provide fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs, including household work relating to the care of that person such as meal preparation, bed making, clothes washing, and other similar services and including general household work that does not exceed 20 percent of the total weekly hours worked. “Companionship services” do not include services relating to the care and protection of a person who, because of age or physical or mental infirmity, cannot care for his or her own needs that require and are performed by a trained professional such as a registered nurse or a licensed practical nurse.

**SECTION 3.** 103.02 of the statutes is amended to read:

**103.02 Hours of labor.** No person may be employed or be permitted to work in any place of employment or at any employment for ~~such~~ any period of time during any day, night, or week, ~~as~~ that is dangerous or prejudicial to

the person’s life, health, safety, or welfare. The department shall investigate, ascertain, determine, and fix ~~such~~ reasonable ~~classification~~ classifications, and promulgate rules fixing a period of time, or hours of beginning and ending work during any day, night, or week, ~~which shall~~ be as are necessary to protect the life, health, safety, or welfare of any person, or to carry out the purposes of ss. 103.01 to 103.03. The department shall, by rule, classify ~~such~~ those periods of time into periods to be paid for at regular rates and periods to be paid for at the rate of at least ~~one and one-half~~ 1.5 times the regular rates. ~~Such,~~ except that no employer of a person employed to perform companionship services may be required to pay that person at the rate of at least 1.5 times the person’s regular rate for any overtime hours worked. ~~Those~~ Those investigations, classifications, and orders shall be made as provided in s. 103.005, and the penalties under s. 103.005 (12) shall apply to and be imposed for any violation of ss. 103.01 to 103.03. ~~Such~~ Those orders shall be subject to review in the manner provided in ch. 227. Section 111.322 (2m) applies to discharge or other discriminatory acts arising in connection with any proceeding under this section.

**SECTION 4.** 103.025 (2) of the statutes is amended to read:

103.025 (2) An employer described in s. 103.01 (~~4~~) (1r) (b) may provide an employee, in lieu of overtime

\* Section 991.11, WISCONSIN STATUTES 2001–02 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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compensation, compensatory time off as permitted under 29 USC 207 (o), as amended to April 15, 1986.

**SECTION 5. Initial applicability.**

(1) OVERTIME PAY EXEMPTION FOR COMPANIONSHIP SERVICES PROVIDERS. This act first applies to an employee

who is affected by a collective bargaining agreement that contains provisions that are inconsistent with this act on the day on which the agreement expires or is extended, modified, or renewed, whichever occurs first.

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