

State of Wisconsin



2009 Senate Bill 586

Date of enactment: **May 12, 2010**
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2009 WISCONSIN ACT 291

AN ACT *to repeal* 106.01 (2), 106.01 (4), 106.01 (5) (intro.), 106.01 (5) (a), 106.01 (5) (b), 106.01 (5) (c), 106.01 (5) (e), 106.01 (5) (f), 106.01 (5) (g), 106.01 (5i) (a), 106.01 (5i) (b) and 106.01 (5k); *to renumber and amend* 15.227 (13), 106.001 (3), 106.01 (3), 106.01 (5) (d), 106.01 (5i) (am) 1., 106.01 (5i) (am) 2., 106.01 (5i) (c), 106.01 (5j), 106.01 (6) and 106.01 (10); *to amend* 15.157 (15) (a), 15.157 (15) (c), 101.136 (4) (a), 101.136 (6) (a) 1., 101.136 (6) (c) 2., 103.70 (1), 104.08 (2m), 106.001 (1), 106.001 (2), 106.01 (7), 106.01 (8), 106.01 (9), 106.02, 106.025 (2), 106.03, 106.13 (3), 145.01 (3), 145.07 (7) (a), 445.095 (3) and 454.10 (1); *to repeal and recreate* 106.01 (title); and *to create* 15.227 (13) (a) 1. to 6. and (b), 106.001 (2m), 106.001 (4), 106.001 (5), 106.001 (6), 106.001 (7), 106.01 (5m) (title), 106.01 (6) (title), 106.01 (6) (d) and 106.01 (11) of the statutes; **relating to:** apprentice contracts, the appointment and composition of the Wisconsin Apprenticeship Council, requiring the exercise of rule-making authority, and providing a penalty.

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

SECTION 1. 15.157 (15) (a) of the statutes, as created by 2009 Wisconsin Act 16, is amended to read:

15.157 (15) (a) Two members who represent major insulation companies that sponsor an apprenticeship training program in installing and maintaining thermal system insulation that is approved by the department and that meets the requirements of the department of workforce development under subch. I of ch. 106.

SECTION 2. 15.157 (15) (c) of the statutes, as created by 2009 Wisconsin Act 16, is amended to read:

15.157 (15) (c) Two members who are mechanics with at least 10 years of experience in the area of heat and frost insulation and who have successfully completed training in installing and maintaining thermal system insulation under an apprenticeship program that is approved by the department and that meets the require-

ments of the department of workforce development under subch. I of ch. 106.

SECTION 3. 15.227 (13) of the statutes is renumbered 15.227 (13) (a) (intro.) and amended to read:

15.227 (13) (a) (intro.) There is created in the department of workforce development a Wisconsin apprenticeship council ~~appointed by the labor and industry review commission, consisting of all of the following:~~

SECTION 4. 15.227 (13) (a) 1. to 6. and (b) of the statutes are created to read:

15.227 (13) (a) 1. Nine representatives of employers, appointed by the secretary of workforce development.

2. Nine representatives of employees, appointed by the secretary of workforce development.

3. One representative of the technical college system, appointed by the director of the technical college system.

4. One representative of the department of public instruction, appointed by the state superintendent of public instruction.

* Section 991.11, WISCONSIN STATUTES 2007-08 : 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].

5. Two members who represent the public interest, appointed by the secretary of workforce development.

6. One permanent classified employee of the department of workforce development, appointed by the secretary of workforce development, who shall serve as non-voting chairperson.

(b) All members of the Wisconsin apprenticeship council shall be persons who are familiar with apprenticeable occupations.

SECTION 5. 101.136 (4) (a) of the statutes, as created by 2009 Wisconsin Act 16, is amended to read:

101.136 (4) (a) The department shall employ a person who has at least 10 years of experience as a mechanic, and who has successfully completed an apprenticeship program in installing and maintaining thermal system insulation that is approved by the department and that meets the requirements of the department of workforce development under subch. I of ch. 106, as the state inspector. The state inspector shall work under the direct supervision of the secretary or his or her designee.

SECTION 6. 101.136 (6) (a) 1. of the statutes, as created by 2009 Wisconsin Act 16, is amended to read:

101.136 (6) (a) 1. Except as provided in subd. 2., beginning on July 1, 2011, no person may install or maintain thermal system insulation in any building unless that person is a mechanic licensed by the department under this section, is working under the direct supervision of a licensed mechanic, or is serving an apprenticeship in the installation and maintenance of thermal system insulation that meets the requirements specified under subch. I of ch. 106.

SECTION 7. 101.136 (6) (c) 2. of the statutes, as created by 2009 Wisconsin Act 16, is amended to read:

101.136 (6) (c) 2. He or she has successfully completed training in installing and maintaining thermal system insulation under an apprenticeship program that is approved by the department and that meets the requirements of the department of workforce development under subch. I of ch. 106.

SECTION 8. 103.70 (1) of the statutes is amended to read:

103.70 (1) Except as otherwise provided in sub. (2) and in ss. 103.21 to 103.31, 103.78, 938.245 (2) (a) 5. b., 938.32 (1t) (a) 2., and 938.34 (5) (b) and (5g) (c), and as may be provided under s. 103.79, a minor, may not be employed or permitted to work at any gainful occupation or employment, unless indentured as employed under an apprentice in accordance with contract under s. 106.01, or unless 12 years and over and engaged in farming, or unless 14 years and over and enrolled in a youth apprenticeship program under s. 106.13, shall not be employed or permitted to work at any gainful occupation or employment or unless there is first obtained from the department or a permit officer a written permit authorizing the employment of the minor within those periods of

time stated in the permit, which shall may not exceed the maximum hours prescribed by law.

SECTION 9. 104.08 (2m) of the statutes is amended to read:

104.08 (2m) Any person working in a trade industry for which a living wage has been established for minors, and who has no trade, shall be ~~indentured~~ employed under an apprentice contract under s. 106.01.

SECTION 10. 106.001 (1) of the statutes is amended to read:

106.001 (1) “Apprentice” means any person who enters into an ~~indenture with an employer or organization~~ apprentice contract with the department and with a sponsor or an apprenticeship committee acting as the agent of a sponsor.

SECTION 11. 106.001 (2) of the statutes is amended to read:

106.001 (2) “~~Indenture~~” “Apprentice contract” means any contract or agreement of service, express or implied, between an apprentice, the department, and a sponsor or an apprenticeship committee acting as the agent of a sponsor whereby an apprentice is to receive from or through the apprentice’s employer, in consideration for the apprentice’s services in whole or in part, instruction in any trade, craft, or business.

SECTION 12. 106.001 (2m) of the statutes is created to read:

106.001 (2m) “Apprenticeship committee” means a joint apprenticeship committee or a nonjoint apprenticeship committee designated by a sponsor to administer an apprenticeship program.

SECTION 13. 106.001 (3) of the statutes is renumbered 106.001 (8) and amended to read:

106.001 (8) “~~Organization~~” “Sponsor” means ~~an any~~ employer, organization of employees, association of employers, committee, or other similar responsible agency in this state person operating an apprenticeship program and in whose name the apprenticeship program is approved by the department.

SECTION 14. 106.001 (4) of the statutes is created to read:

106.001 (4) “Apprenticeship program” means a program approved by the department providing for the employment and training of apprentices in a trade, craft, or business that includes a plan containing all of the terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices as required under this subchapter, including the apprentice contract requirements under s. 106.01.

SECTION 15. 106.001 (5) of the statutes is created to read:

106.001 (5) “Employer” means any person employing an apprentice, whether or not the person is a party to an apprentice contract with the apprentice.

SECTION 16. 106.001 (6) of the statutes is created to read:

106.001 (6) "Joint apprenticeship committee" means an apprenticeship committee that consists of an equal number of representatives of employers and of representatives of employees who are represented by a collective bargaining agent.

SECTION 17. 106.001 (7) of the statutes is created to read:

106.001 (7) "Nonjoint apprenticeship committee" means an apprenticeship committee that consists of representatives of employers, but not of representatives of employees who are represented by a collective bargaining agent.

SECTION 18. 106.01 (title) of the statutes is repealed and recreated to read:

106.01 (title) Apprenticeship contracts.

SECTION 19. 106.01 (2) of the statutes is repealed.

SECTION 20. 106.01 (3) of the statutes is renumbered 106.01 (1) and amended to read:

106.01 (1) FORMATION OF APPRENTICE CONTRACT. Except as provided in ss. 106.02, 106.025 and 106.03, any minor Any person 16 years of age or over or any adult may, by the execution of an indenture, bind may enter into an apprenticeship contract binding himself or herself to serve as an apprentice as provided in this section ~~for a~~. Except as provided in ss. 106.02, 106.025, and 106.03, the term of service of an apprenticeship shall be for not less than one year. Every apprenticeship contract shall be in writing and shall be signed by the apprentice, the department, and the sponsor or an apprenticeship committee acting as the agent of the sponsor. If the apprentice has not reached 18 years of age, the apprenticeship contract shall also be signed by one of the apprentice's parents or, if both parents are deceased or legally incapable of giving consent, by the guardian of the apprentice or, if there is no guardian, by a deputy of the department. The department shall specify the provisions that are required to be included in an apprenticeship contract by rule promulgated under sub. (11).

SECTION 21. 106.01 (4) of the statutes is repealed.

SECTION 22. 106.01 (5) (intro.) of the statutes is repealed.

SECTION 23. 106.01 (5) (a) of the statutes is repealed.

SECTION 24. 106.01 (5) (b) of the statutes is repealed.

SECTION 25. 106.01 (5) (c) of the statutes is repealed.

SECTION 26. 106.01 (5) (d) of the statutes is renumbered 106.01 (6) (b) and amended to read:

106.01 (6) (b) An agreement stating the number of hours to be spent in work, and the number of hours to be spent in instruction. During the first 2 years of an apprenticeship, the apprentice's period of instruction shall be not less than 4 hours per week or the equivalent sponsor shall provide for the apprentice not less than 144 hours per year of related instruction. If the apprenticeship is for a longer period than 2 years, the total hours of instruction

shall be sponsor shall provide for the apprentice not less than a total of 400 hours of related instruction over the term of the apprenticeship. If the apprentice is receiving classroom instruction, the sponsor shall provide for the apprentice not less than 4 hours of related instruction or the equivalent during each week that the school providing the classroom instruction is in session. The total number of hours of related instruction and work shall that a sponsor may assign to an apprentice may not exceed 55 per week, except that nothing in this paragraph shall be construed to forbid overtime work as provided in sub. (7).

SECTION 27. 106.01 (5) (e) of the statutes is repealed.

SECTION 28. 106.01 (5) (f) of the statutes is repealed.

SECTION 29. 106.01 (5) (g) of the statutes is repealed.

SECTION 30. 106.01 (5i) (a) of the statutes is repealed.

SECTION 31. 106.01 (5i) (am) 1. of the statutes is renumbered 106.01 (5m) (a) and amended to read:

106.01 (5m) (a) Upon entering into an indenture, an organization apprenticeship contract, a sponsor that is not the proposed employer of the apprentice, or an apprenticeship committee that is acting as the agent of a sponsor, shall, with the written consent of the other parties to the indenture, and the written acceptance of the indenture acceptance of the apprenticeship contract by the proposed employer, assign the indenture apprenticeship contract to the proposed employer, and the proposed employer and the apprentice named in the indenture assignment shall be bound by the terms of the indenture apprenticeship contract.

SECTION 32. 106.01 (5i) (am) 2. of the statutes is renumbered 106.01 (5m) (b) and amended to read:

106.01 (5m) (b) The consent and department shall furnish a copy of an acceptance described in subd. 1. shall be executed in triplicate. One of the triplicate original consents and acceptances shall be delivered to the department, one to the employer and one to the apprentice, and in each case shall be attached to the proper indenture. The approval of the department is required in each transaction. An organization par. (a) to each party that has signed the apprenticeship contract. A sponsor or apprenticeship committee that enters into an indenture under par. (a) apprenticeship contract shall have the exclusive right to assign or reassign the indenture apprenticeship contract to another sponsor, and the apprentice shall not be permitted to enter into any other indenture apprenticeship contract. The period transpiring before assignment to an employer or reassignment to another employer shall not be credited toward the period term of apprenticeship. The approval of the department is required in each transaction.

SECTION 33. 106.01 (5i) (b) of the statutes is repealed.

SECTION 34. 106.01 (5i) (c) of the statutes is renumbered 106.01 (5m) (c) and amended to read:

106.01 (5m) (c) Any employer that has entered into an indenture may, with the written consent, executed in triplicate, of the other parties to the indenture and the

approval of the department, assign the indenture to another employer whose written acceptance shall be executed upon the instrument of consent. One of the triplicate original consents and acceptances shall be delivered to the apprentice, one to the assignee employer and one to the department, and shall in each case be attached to the indenture in each party's possession. After assignment, the assignee A sponsor or apprenticeship committee that enters into an apprentice contract may reassign the apprentice contract to a different employer, but the apprentice shall not be bound by a reassignment unless that employer accepts the terms of the apprentice contract and agrees to perform the unperformed obligations of the apprentice contract. After a reassignment, the new employer shall perform the unperformed obligations of the indenture apprentice contract. The department shall continue to have jurisdiction over an indenture assigned apprentice contract reassigned under this paragraph and the parties bound after the assignment reassignment.

SECTION 35. 106.01 (5j) of the statutes is renumbered 106.01 (5p) and amended to read:

106.01 (5p) **TERMINATION OF APPRENTICE CONTRACT.** The department may, on its own motion, or on the complaint of any person, and after due notice, investigation, and, if requested by the apprentice, employer, or sponsor, a hearing, under sub. (9), may make findings and issue orders declaring any indenture at an end an order terminating an apprentice contract if it is proved at the hearing that any apprentice, employer, or organization sponsor that is a party to the indenture apprentice contract is unable to continue with the obligations under the indenture apprentice contract or has breached the indenture apprentice contract. Upon the termination of the indenture apprentice contract, the released apprentice shall be free to may enter into a new indenture apprentice contract under any terms and conditions approved by the department that are ~~not inconsistent~~ consistent with this section.

SECTION 36. 106.01 (5k) of the statutes is repealed.

SECTION 37. 106.01 (5m) (title) of the statutes is created to read:

106.01 (5m) (title) **ASSIGNMENT OF APPRENTICE CONTRACT.**

SECTION 38. 106.01 (6) (title) of the statutes is created to read:

106.01 (6) (title) **RELATED INSTRUCTION.**

SECTION 39. 106.01 (6) of the statutes is renumbered 106.01 (6) (a) and amended to read:

106.01 (6) (a) An employer shall pay an apprentice for the time ~~an~~ that the apprentice is receiving related instruction for no fewer hours than specified in sub. (5) (d) at the same rate per hour as for services as provided in this paragraph. An employer shall pay an apprentice for not less than the number of hours of related instruction specified in par. (b) or the number of hours of related instruction specified in the apprentice contract, which-

ever is greater, at the same rate per hour as the employer pays the apprentice for services performed.

(c) This subsection does not prohibit an agreement between the parties requiring the apprentice to take additional instruction on the apprentice's own time in excess of the number of hours required by statute. Attendance at school shall be certified by the teacher in charge under par. (b) or the apprentice contract, whichever is greater.

SECTION 40. 106.01 (6) (d) of the statutes is created to read:

106.01 (6) (d) The provider of related instruction to an apprentice shall submit reports on the grades and attendance of the apprentice to the department and the sponsor in accordance with standards set by the department.

SECTION 41. 106.01 (7) of the statutes is amended to read:

106.01 (7) **OVERTIME.** An apprentice may be allowed to work overtime. All time in excess of the hours of labor ~~as limited to that are paid at an employee's regular rate of pay in~~ the particular craft, industry, or business and ~~as to~~ by the particular employer, shall be considered overtime. ~~For overtime the~~ An apprentice's rate of pay for overtime shall be increased by the same percentage as the ~~journeyman's~~ journey worker's, rate of pay for overtime is increased in the same industry or establishment.

SECTION 42. 106.01 (8) of the statutes is amended to read:

106.01 (8) **NONPERFORMANCE OF APPRENTICE CONTRACT.** ~~If either party to an indenture the apprentice or sponsor that is a party to an apprentice contract or an assignee employer fails to perform any of the stipulations of the indenture apprentice contract, the nonperforming party shall apprentice, sponsor, or assignee employer may be required to~~ forfeit not less than ~~one dollar~~ \$100 nor more than ~~\$100~~ \$1,000, which is to be collected on complaint of the department, and paid into the state treasury. ~~Any indenture may be annulled by~~ In addition, the department may terminate an apprentice contract under sub. (5p) upon application of either any party and for good cause shown.

SECTION 43. 106.01 (9) of the statutes is amended to read:

106.01 (9) **AUTHORITY OF DEPARTMENT.** The department may investigate, fix reasonable classifications, issue rules and general or special orders, and, hold hearings, make findings, and render orders upon its findings as ~~shall be~~ necessary to carry out the intent and purposes of this section. The investigations, classifications, hearings, findings, and orders shall be made as provided in s. 103.005. Except as provided in sub. (8), the penalties specified in s. 103.005 (12) apply to violations of this section. Orders issued under this subsection are subject to review under ch. 227.

SECTION 44. 106.01 (10) of the statutes is renumbered 106.01 (6) (e) and amended to read:

106.01 (6) (e) ~~It shall be the duty of all~~ All school officers and public school teachers ~~to shall~~ cooperate with the department and employers and sponsors of apprentices to furnish, in a public school or any school supported in whole or in part by public moneys, any related instruction that may be required to be given apprentices.

SECTION 45. 106.01 (11) of the statutes is created to read:

106.01 (11) RULES. The department shall promulgate rules to implement this section, including rules providing for all of the following:

(a) The provisions that are required to be included in an apprentice contract.

(b) Procedures for approving and for rescinding approval of apprenticeship programs.

SECTION 46. 106.02 of the statutes is amended to read:

106.02 Carpenters' apprentices. Every person, regardless of age, commencing a carpentry apprenticeship, shall enter into an ~~indenture~~ apprentice contract under and be subject to s. 106.01, except that if the apprentice is 18 years ~~or more~~ of age or over only the apprentice's signature ~~only~~ shall be necessary to bind the apprentice. A carpentry apprenticeship shall be for a ~~period~~ term of 4 years, except that the department may upon the application of the apprentice or the employer, or both, extend that term for up to one additional year.

SECTION 47. 106.025 (2) of the statutes is amended to read:

106.025 (2) Every person commencing a plumbing apprenticeship shall enter into an ~~indenture~~ apprentice contract under s. 106.01. The term of a plumbing apprentice is 5 years, but the department may upon application of the apprentice, the apprentice's employer, or both, extend the term for up to one additional year.

SECTION 48. 106.03 of the statutes is amended to read:

106.03 Real estate apprenticeships excluded. This ~~chapter shall~~ subchapter does not apply to apprenticeships under ch. 452.

SECTION 49. 106.13 (3) of the statutes is amended to read:

106.13 (3) The youth apprenticeship program under sub. (1) shall not affect any apprenticeship program that is governed by ~~ss. 106.01 to 106.03~~ subch. I, except that an apprenticeship program that is governed by ~~ch. 106~~ subch. I may grant credit toward the completion of an

apprenticeship for the successful completion of a youth apprenticeship under sub. (1).

SECTION 50. 145.01 (3) of the statutes is amended to read:

145.01 (3) AUTOMATIC FIRE SPRINKLER SYSTEM APPRENTICE. "Automatic fire sprinkler system apprentice" means any person other than an automatic fire sprinkler system contractor or a journeyman automatic fire sprinkler system fitter who is engaged in learning and assisting in the installation of automatic fire sprinkler systems and who is ~~indentured under ch. 106~~ employed under an apprentice contract under s. 106.01.

SECTION 51. 145.07 (7) (a) of the statutes is amended to read:

145.07 (7) (a) A person shall be registered as a registered learner with the department without examination or training prequalifications and shall not be required to be ~~indentured under ch. 106~~ employed under an apprentice contract under s. 106.01.

SECTION 52. 445.095 (3) of the statutes is amended to read:

445.095 (3) All apprentices shall be governed by subch. I of ch. 106 and apprenticeship rules of the department of workforce development.

SECTION 53. 454.10 (1) of the statutes is amended to read:

454.10 (1) All apprentices shall be ~~indentured~~ employed under an apprentice contract under s. 106.01 and shall be governed by s. 106.01, the apprenticeship rules of the department of workforce development, and the rules of the examining board.

SECTION 54. Initial applicability.

(1) APPRENTICE CONTRACTS. The treatment of sections 106.001 (1), (2), (2m), (3), (4), (5), (6), and (7) and 106.01 (2), (3), (4), (5) (intro.), (a), (b), (c), (d), (e), (f), and (g), and (5i) (a), (am) 1. and 2., (b), and (c) of the statutes and the renumbering and amendment of section 106.01 (6) of the statutes first apply to an apprentice contract entered into on the effective date of this subsection, except that, if any of those provisions are inconsistent with a collective bargaining agreement, the inconsistent provision first applies on the day on which the collective bargaining agreement expires or is extended, modified, or renewed, whichever occurs first.

(2) WISCONSIN APPRENTICESHIP COUNCIL. The renumbering and amendment of section 15.227 (13) of the statutes and the creation of section 15.227 (13) (a) 1. to 6. and (b) of the statutes first apply to a member appointed to the Wisconsin apprenticeship council on the effective date of this subsection.