

1           343.61 (2) (b) The department of transportation may not disclose any  
2 information received under par. (a) 1. or 2. to any person except to the department  
3 of children and families for purposes of administering s. 49.22 or, the department of  
4 revenue for the sole purpose of requesting certifications under s. 73.0301, and the  
5 department of workforce development for the sole purpose of requesting  
6 certifications under s. 108.227.

7           **SECTION 233.** 343.62 (2) (b) of the statutes is amended to read:

8           343.62 (2) (b) The department of transportation may not disclose a social  
9 security number obtained under par. (a) to any person except to the department of  
10 children and families for the sole purpose of administering s. 49.22 or, the  
11 department of revenue for the sole purpose of requesting certifications under s.  
12 73.0301, and the department of workforce development for the sole purpose of  
13 requesting certifications under s. 108.227.

14           **SECTION 234.** 343.66 (3m) of the statutes is created to read:

15           343.66 (3m) The secretary shall suspend or revoke a driver school license  
16 issued under s. 343.61 or an instructor's license issued under s. 343.62, if the  
17 department of workforce development certifies under s. 108.227 that the licensee is  
18 liable for delinquent unemployment insurance contributions. A licensee whose  
19 driver school license or instructor's license is suspended or revoked under this  
20 subsection for delinquent unemployment insurance contributions is entitled to a  
21 notice under s. 108.227 (2) (b) 1. b. and a hearing under s. 108.227 (5) (a) but is not  
22 entitled to any other notice or hearing under this subchapter.

23           **SECTION 235.** 343.69 (1) of the statutes is amended to read:

24           343.69 (1) If the department denies an application for original issuance or  
25 renewal of a driver school license or instructor's license, or revokes, suspends,

1 cancels, or restricts any such license, the department shall notify the applicant or  
2 licensee in writing of the action by sending notice of the action by registered or  
3 certified mail to the last-known address of the licensee or applicant. Any person who  
4 is aggrieved by a decision of the department under this subsection may, within 10  
5 days after the date of receiving notice of the department's action, request review of  
6 the action by the division of hearings and appeals in the department of  
7 administration under ch. 227. This subsection does not apply to denials,  
8 cancellations, restrictions, suspensions, or revocations of licenses under s. 343.66 (2)  
9 ~~or, (3), or (3m).~~

10 **SECTION 236.** 440.03 (11m) (c) of the statutes is amended to read:

11 440.03 (11m) (c) The department of safety and professional services may not  
12 disclose a social security number obtained under par. (a) to any person except the  
13 coordinated licensure information system under s. 441.50 (7); the department of  
14 children and families for purposes of administering s. 49.22; and, for a social security  
15 number obtained under par. (a) 1., the department of revenue for the purpose of  
16 requesting certifications under s. 73.0301 and administering state taxes and the  
17 department of workforce development for the purpose of requesting certifications  
18 under s. 108.227.

19 **SECTION 237.** 440.12 of the statutes is renumbered 440.12 (intro.) and amended  
20 to read:

21 **440.12 Credential denial, nonrenewal and revocation based on tax or**  
22 **unemployment insurance contribution delinquency.** (intro.)

23 Notwithstanding any other provision of chs. 440 to 480 relating to issuance or  
24 renewal of a credential, the department shall deny an application for an initial

1 credential or credential renewal or revoke a credential if ~~the~~ any of the following  
2 applies:

3 (1) The department of revenue certifies under s. 73.0301 that the applicant or  
4 credential holder is liable for delinquent taxes, ~~as defined in s. 73.0301 (1) (e).~~

5 **SECTION 238.** 440.12 (2) of the statutes is created to read:

6 440.12 (2) The department of workforce development certifies under s. 108.227  
7 that the applicant or credential holder is liable for delinquent unemployment  
8 insurance contributions.

9 **SECTION 239.** 452.18 of the statutes is amended to read:

10 **452.18 Court review.** Except as provided in s. ss. 73.0301 (2) (b) 1. a. and 2.  
11 and 108.227 (2) (b) 1. a. and (6), orders of the board and department shall be subject  
12 to review as provided in ch. 227.

13 **SECTION 240.** 551.406 (6) (a) 1m. of the statutes is created to read:

14 551.406 (6) (a) 1m. The department of workforce development, for the sole  
15 purpose of requesting certifications under s. 108.227.

16 **SECTION 241.** 551.412 (4g) (a) 1. of the statutes is amended to read:

17 551.412 (4g) (a) 1. The applicant fails to provide any information required  
18 under s. 551.406 (6) (a) 1., 1m., or 2.

19 **SECTION 242.** 551.412 (4g) (a) 2m. of the statutes is created to read:

20 551.412 (4g) (a) 2m. The department of workforce development certifies under  
21 s. 108.227 that the applicant is liable for delinquent unemployment insurance  
22 contributions. An applicant whose application for the issuance or renewal of a  
23 registration is denied under this subdivision for delinquent unemployment  
24 insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and

1 hearing under s. 108.227 (5) (a), but is not entitled to any other notice, hearing, or  
2 review under this subchapter.

3 **SECTION 243.** 551.412 (4g) (d) of the statutes is created to read:

4 551.412 (4g) (d) The administrator shall revoke a registration if the  
5 department of workforce development certifies under s. 108.227 that the registrant  
6 is liable for delinquent unemployment insurance contributions. A registrant whose  
7 registration is revoked under this paragraph for delinquent unemployment  
8 insurance contributions is entitled to a notice under s. 108.227 (2) (b) 1. b. and  
9 hearing under s. 108.227 (5) (a) but is not entitled to any other notice, hearing, or  
10 review under this subchapter.

11 **SECTION 244.** 551.605 (2) of the statutes is amended to read:

12 551.605 (2) FINDINGS AND COOPERATION. Under this chapter, except as provided  
13 under s. 551.412 (4g) (b) ~~and~~, (c), and (d), a rule or form may not be adopted or  
14 amended, or an order issued or amended, unless the administrator finds that the  
15 rule, form, order, or amendment is necessary or appropriate in the public interest or  
16 for the protection of investors and is consistent with the purposes intended by this  
17 chapter. In adopting, amending, and repealing rules and forms, s. 551.608 applies  
18 in order to achieve uniformity among the states and coordination with federal laws  
19 in the form and content of registration statements, applications, reports, and other  
20 records, including the adoption of uniform rules, forms, and procedures.

21 **SECTION 245.** 562.05 (5) (a) 11. of the statutes is created to read:

22 562.05 (5) (a) 11. The person is liable for delinquent unemployment insurance  
23 contributions, as certified by the department of workforce development under s.  
24 108.227. Any person for whom a license is not issued under this paragraph for  
25 delinquent unemployment insurance contributions is entitled to a notice under s.

1 108.227 (2) (b) 1. b. and a hearing under s. 108.227 (5) (a) but is not entitled to any  
2 other notice or hearing under this section.

3 **SECTION 246.** 562.05 (8) (f) of the statutes is created to read:

4 562.05 (8) (f) The department shall revoke or not renew the license of any  
5 person who has been certified by the department of workforce development under s.  
6 108.227 to be liable for delinquent unemployment insurance contributions. Any  
7 person for whom a license is revoked or not renewed under this paragraph for  
8 delinquent unemployment insurance contributions is entitled to a notice under s.  
9 108.227 (2) (b) 1. b. and a hearing under s. 108.227 (5) (a) but is not entitled to any  
10 other notice or hearing under this section.

11 **SECTION 247.** 562.05 (8m) (a) of the statutes is amended to read:

12 562.05 (8m) (a) If the applicant for any license is an individual, the department  
13 shall disclose his or her social security number to the department of children and  
14 families for the purpose of administering s. 49.22 and, to the department of revenue  
15 for the purpose of requesting certifications under s. 73.0301, and to the department  
16 of workforce development for the purpose of requesting certifications under s.  
17 108.227.

18 **SECTION 248.** 562.05 (8m) (b) of the statutes is amended to read:

19 562.05 (8m) (b) If the applicant for any license is not an individual, the  
20 department shall disclose the person's federal employer identification number to the  
21 department of revenue for the purpose of requesting certifications under s. 73.0301  
22 and to the department of workforce development for the purpose of requesting  
23 certifications under s. 108.227.

24 **SECTION 249.** 563.285 (title) of the statutes is amended to read:

1           **563.285** (title) **Supplier's license and delinquent taxes or**  
2 **unemployment insurance contributions.**

3           **SECTION 250.** 563.285 (1m) of the statutes is created to read:

4           **563.285 (1m)** The department shall deny an application for the issuance or  
5 renewal of a license, or revoke a license already issued, if the department of  
6 workforce development certifies under s. 108.227 that the applicant or licensee is  
7 liable for delinquent unemployment insurance contributions. An applicant for  
8 whom a license is not issued or renewed, or a licensee whose license is revoked, under  
9 this section for delinquent unemployment insurance contributions is entitled to a  
10 notice under s. 108.227 (2) (b) 1. b. and a hearing under s. 108.227 (5) (a) but is not  
11 entitled to any other notice or hearing under this section.

12           **SECTION 251.** 563.285 (2) (a) of the statutes is amended to read:

13           **563.285 (2) (a)** If a licensee or an applicant for any license is an individual, the  
14 department shall disclose his or her social security number to the department of  
15 revenue for the purpose of requesting certifications under s. 73.0301 and to the  
16 department of workforce development for the purpose of requesting certifications  
17 under s. 108.227.

18           **SECTION 252.** 563.285 (2) (b) of the statutes is amended to read:

19           **563.285 (2) (b)** If a licensee or an applicant for any license is not an individual,  
20 the department shall disclose the person's federal employer identification number  
21 to the department of revenue for the purpose of requesting certifications under s.  
22 73.0301 and to the department of workforce development for the purpose of  
23 requesting certifications under s. 108.227.

24           **SECTION 253.** 628.095 (4) (b) of the statutes is amended to read:

1           628.095 (4) (b) The commissioner may disclose any information received under  
2 sub. (1) or (3) to the department of revenue for the purpose of requesting  
3 certifications under s. 73.0301 and to the department of workforce development for  
4 the purpose of requesting certifications under s. 108.227.

5           **SECTION 254.** 628.097 (title) of the statutes is amended to read:

6           **628.097 (title) Refusal to issue license; failure to pay support or to**  
7 **comply with subpoena or warrant; tax or unemployment insurance**  
8 **contribution delinquency.**

9           **SECTION 255.** 628.097 (2m) of the statutes is amended to read:

10           **628.097 (2m) FOR LIABILITY FOR DELINQUENT TAXES OR UNEMPLOYMENT INSURANCE**  
11 **CONTRIBUTIONS.** The commissioner shall refuse to issue a license, including a  
12 temporary license, under this subchapter if the department of revenue certifies  
13 under s. 73.0301 that the applicant for the license is liable for delinquent taxes or if  
14 the department of workforce development certifies under s. 108.227 that the  
15 applicant for the license is liable for delinquent unemployment insurance  
16 contributions.

17           **SECTION 256.** 628.10 (2) (cm) of the statutes is amended to read:

18           **628.10 (2) (cm) *For liability for delinquent taxes or unemployment insurance***  
19 ***contributions.*** The commissioner shall revoke the license of an intermediary,  
20 including a temporary license under s. 628.09, if the department of revenue certifies  
21 under s. 73.0301 that the intermediary is liable for delinquent taxes or if the  
22 department of workforce development certifies under s. 108.227 that the  
23 intermediary is liable for delinquent unemployment insurance contributions. An  
24 intermediary who is a natural person whose license is revoked under this paragraph  
25 may have his or her license reinstated, or may be relicensed, as provided in sub. (5).

1           **SECTION 257.** 632.69 (2) (c) of the statutes is amended to read:

2           632.69 (2) (c) The commissioner may not issue a license under this subsection  
3 unless the applicant provides his or her social security number or its federal  
4 employer identification number or, if the applicant does not have a social security  
5 number, a statement made or subscribed under oath or affirmation that the  
6 applicant does not have a social security number. An applicant who is providing a  
7 statement that he or she does not have a social security number, shall provide that  
8 statement along with the application for a license on a form prescribed by the  
9 department of children and families. A licensee shall provide to the commissioner  
10 the licensee's social security number, statement the licensee does not have the social  
11 security number, or federal employment identification number of the licensee at the  
12 time that the annual license renewal fee is paid, if not previously provided. The  
13 commissioner shall disclose a social security number obtained from an applicant or  
14 licensee to the department of children and families in the administration of s. 49.22,  
15 as provided in a memorandum of understanding entered into under s. 49.857. The  
16 commissioner may disclose the social security number or federal employment  
17 identification number of an applicant or licensee to the department of revenue for the  
18 purpose of requesting certifications under s. 73.0301 and to the department of  
19 workforce development for the purpose of requesting certifications under s. 108.227.

20           **SECTION 258.** 632.69 (2) (d) 2. of the statutes is amended to read:

21           632.69 (2) (d) 2. The commissioner shall refuse to issue or renew a license under  
22 this subsection if the department of revenue certifies under s. 73.0301 that the  
23 applicant for the license or renewal of the license is liable for delinquent taxes or if  
24 the department of workforce development certifies under s. 108.227 that the



1 applicant for the license or renewal of the license is liable for delinquent  
2 unemployment insurance contributions.

3 **SECTION 259.** 632.69 (4) (d) of the statutes is amended to read:

4 632.69 (4) (d) The commissioner shall revoke the license of a licensee if the  
5 department of revenue certifies under s. 73.0301 that the licensee is liable for  
6 delinquent taxes or if the department of workforce development certifies under s.  
7 108.227 that the licensee is liable for delinquent unemployment insurance  
8 contributions.

9 **SECTION 260.** 633.14 (2c) (b) of the statutes is amended to read:

10 633.14 (2c) (b) The commissioner may disclose any information received under  
11 sub. (1) (d) or (2) (d) or s. 633.15 (1m) to the department of revenue for the purpose  
12 of requesting certifications under s. 73.0301 and to the department of workforce  
13 development for the purpose of requesting certifications under s. 108.227.

14 **SECTION 261.** 633.14 (2m) (b) of the statutes is amended to read:

15 633.14 (2m) (b) Notwithstanding subs. (1) and (2), the commissioner may not  
16 issue a license under this section if the department of revenue certifies under s.  
17 73.0301 that the applicant is liable for delinquent taxes or if the department of  
18 workforce development certifies under s. 108.227 that the applicant is liable for  
19 delinquent unemployment insurance contributions.

20 **SECTION 262.** 633.15 (2) (d) of the statutes is amended to read:

21 633.15 (2) (d) *For liability for delinquent taxes or unemployment insurance*  
22 *contributions.* The commissioner shall revoke or refuse to renew a license issued  
23 under s. 633.14 if the department of revenue certifies under s. 73.0301 that the  
24 licensee is liable for delinquent taxes or if the department of workforce development

1 certifies under s. 108.227 that the licensee is liable for delinquent unemployment  
2 insurance contributions.

3 **SECTION 263.** 751.155 (title) of the statutes is amended to read:

4 **751.155 (title) Rules regarding the practice of law; delinquent**  
5 **taxpayers taxes and unemployment insurance contributions.**

6 **SECTION 264.** 751.155 (1) of the statutes is amended to read:

7 751.155 (1) The supreme court is requested to enter into a memorandum of  
8 understanding with the department of revenue under s. 73.0301, and the supreme  
9 court is requested to enter into a memorandum of understanding with the  
10 department of workforce development under s. 108.227.

11 **SECTION 265.** 751.155 (2) of the statutes is amended to read:

12 751.155 (2) The supreme court is requested to promulgate rules that require  
13 each person, as a condition of membership in the state bar, to provide the board of  
14 bar examiners with his or her social security number and that prohibit the disclosure  
15 of that number to any person except the department of revenue for the sole purpose  
16 of making certifications under s. 73.0301 and the department of workforce  
17 development for the sole purpose of making certifications under s. 108.227.

18 **SECTION 266.** 751.155 (3) of the statutes is amended to read:

19 751.155 (3) The supreme court is requested to promulgate rules that deny an  
20 application for a license to practice law or revoke a license to practice law already  
21 issued if the applicant or licensee fails to provide the information required under  
22 rules promulgated under sub. (2) ~~or~~, if the department of revenue certifies that the  
23 applicant or licensee is liable for delinquent taxes under s. 73.0301, or if the  
24 department of workforce development certifies that the licensee is liable for  
25 delinquent unemployment insurance contributions under s. 108.227.

**SECTION 267. Nonstatutory provisions.**

(1) The department of workforce development shall ensure that the searchable, electronic database required to be maintained under section 108.14 (22) of the statutes, as created by this act, is available for use no later than one year after the effective date of this subsection.

(2) The department of workforce development shall make the handbook required to be created under section 108.14 (23) of the statutes, as created by this act, available no later than one year after the effective date of this subsection.

(3) No later than one year after the effective date of this subsection, the department of workforce development shall conduct a training similar to the training required under section 108.14 (25) (b) of the statutes, as created by this act, for all appeal tribunals, as defined in section 108.14 (25) (a) of the statutes, as created by this act, who were previously employed or appointed to serve as appeal tribunals and who the department of workforce development anticipates will continue to serve as appeal tribunals in the future.

(4) The department of workforce development shall request funding from the U.S. department of labor to hire additional employees to perform unemployment insurance fraud investigation.

**SECTION 268. Initial applicability.**

(1) The renumbering of section 50.498 (4) of the statutes, the renumbering and amendment of section 440.12 of the statutes, the amendment of sections 13.63 (1) (b), 13.63 (1) (c), 19.55 (2) (d), 29.024 (2r) (title), 29.024 (2r) (c), 29.024 (2r) (d) 1., 48.66 (2m) (c), 48.715 (7), 50.498 (title), 50.498 (2), 50.498 (5), 51.032 (title), 51.032 (2), 51.032 (4), 51.032 (5), 71.78 (4) (o), 73.0301 (2) (c) 2., 73.0302 (title), 73.09 (6m), 101.02 (20) (b), 101.02 (20) (c), 101.02 (20) (d), 102.17 (1) (c), 103.005 (10), 103.275

(with respect to license revocations based upon delinquency in payment of unemployment insurance contributions)

1 (2) (b) (intro.), 103.275 (7) (b), 103.275 (7) (c), 103.34 (3) (c), 103.34 (10) (title), 103.92

2 (3), 104.07 (1) and (2), 105.13 (1), 108.10 (intro.), 115.31 (6m), 118.19 (1m) (a), 118.19

3 (1m) (b), 138.09 (1m) (b) 2. a., 138.09 (3) (am) 2., 138.09 (4) (c), 138.12 (3) (d) 2. a.,

4 138.12 (5) (am) 1. b., 138.12 (5) (am) 3., 138.14 (4) (a) 2. a., 138.14 (9) (d), 146.40 (4d)

5 (b), 146.40 (4d) (d), 146.40 (4d) (e), 169.35 (title), 169.35 (2), 169.35 (3), 170.12 (3m)

6 (b) 1., 217.05 (1m) (b) 1., 217.09 (4), 217.09 (6), 218.0114 (21e) (a), 218.0114 (21g) (b)

7 1., 218.0116 (1g) (b), 218.02 (2) (a) 2. a., 218.04 (3) (a) 2. a., 218.04 (5) (b), 218.05 (3)

8 (am) 2. a., 218.05 (12) (b), 218.05 (12) (e), 218.11 (2) (am) 3., 218.12 (2) (am) 2., 218.21

9 (2m) (b), 218.31 (1m) (b), 218.41 (2) (am) 2., 218.51 (3) (am) 2., 224.72 (2) (c) 2. a.,

10 224.725 (2) (b) 1. a., 224.927 (1), 227.53 (1) (a) 3., 252.241 (title), 252.241 (2), 254.115

11 (title), 254.115 (2), 254.176 (5), 254.20 (7), 256.18 (title), 256.18 (2), 256.18 (5), 299.07

12 (title), 299.07 (1) (b) 1., 299.08 (1) (b) 2., 341.51 (4g) (b) (with respect to requesting

13 certifications under section 108.227 of the statutes, as created by this act), 343.305

14 (6) (e) 3. b., 343.61 (2) (b), 343.62 (2) (b), 343.69 (1), 440.03 (11m) (c), 452.18, 551.412

15 (4g) (a) 1., 551.605 (2), 562.05 (8m) (a), 562.05 (8m) (b), 563.285 (title), 563.285 (2)

16 (a), 563.285 (2) (b), 628.095 (4) (b), 628.097 (title), 628.097 (2m), 628.10 (2) (cm),

17 632.69 (2) (c), 632.69 (2) (d) 2., 632.69 (4) (d), 633.14 (2c) (b), 633.14 (2m) (b), 633.15

18 (2) (d), 751.155 (title), 751.155 (1), 751.155 (2), and 751.155 (3) of the statutes, and

19 the creation of sections 50.498 (4) (b), 73.0302 (5), 73.0302 (6), 73.09 (8), 102.17 (1)

20 (ct), 103.275 (2) (bt), 103.34 (10) (d), 103.91 (4) (d), 103.92 (8), 104.07 (7), 105.13 (4),

21 108.227, 138.12 (4) (a) 1m., 138.12 (4) (b) 5m., 138.14 (5) (b) 2m., 138.14 (9) (cm),

22 170.12 (8) (b) 1. bm., 170.12 (8) (b) 4., 217.06 (5m), 217.09 (1t), 218.0116 (1m) (a) 2m.,

23 218.0116 (1m) (d), 218.02 (3) (dm), 218.02 (6) (d), 218.02 (9) (a) 1m., 218.04 (4) (am)

24 2m., 218.04 (5) (at), 218.05 (4) (c) 2m., 218.05 (11) (bm), 218.05 (12) (at), 218.11 (6m)

25 (c), 218.12 (3m) (c), 218.22 (3m) (c), 218.32 (3m) (c), 218.41 (3m) (b) 3., 218.51 (4m)

1 (b) 3., 224.72 (7m) (bm), 224.725 (6) (bm), 224.77 (2m) (e), 224.95 (1) (bm), 252.241  
 2 (5), 254.115 (5), 256.18 (4m), 299.07 (3), 341.51 (4m) (c), 343.305 (6) (e) 6., 343.66  
 3 (3m), 440.12 (2), 551.406 (6) (a) 1m., 551.412 (4g) (a) 2m., 551.412 (4g) (d), 562.05 (5)  
 4 (a) 11., 562.05 (8) (f), and 563.285 (1m) of the statutes first apply to contributions, as  
 5 defined in section 108.227 (1) (a) of the statutes, as created by this act, that are  
 6 delinquent on the effective date of this subsection.

Handwritten notes: "MS 7-6" with a circle around it.

7 ~~(2)~~ The treatment of sections 108.02 (4m) (a) and (g), 108.205 (1), and 108.21  
 8 (1) of the statutes and the amendment of section 108.05 (3) (a) of the statutes first  
 9 apply with respect to weeks of unemployment beginning on the effective date of this  
 10 subsection.

Handwritten notes: "MS 11-10" with a circle around it and an arrow pointing to the text on line 11.

11 ~~(3)~~ The treatment of sections 108.02 (13) (a) and (kL) and 108.16 (2) (g) and (h)  
 12 of the statutes first applies to [to be inserted later].

\*\*\*\*NOTE: Initial applicability for treatment of limited liability companies consisting of the same members is needed.

13 ~~(4)~~ The treatment of sections 108.02 (15) (kt), 108.07 (8), 108.14 (8n) (e) (with  
 14 respect to services performed by inmates), 108.141 (7) (a) (with respect to services  
 15 performed by inmates), and 108.16 (6m) (a) of the statutes first applies with respect  
 16 to services performed after December 31, 2013.

17 ~~(5)~~ The treatment of sections 108.02 (15m) (intro.), 108.04 (7) (a), (d), (e), (h),  
 18 (g), (j), (k), (L) (intro.), (m), (n), (o), (p), (r), and (t), 108.14 (8n) (e), and 108.141 (7) (a)  
 19 of the statutes first applies with respect to terminations of employment occurring  
 20 after the effective date of this subsection.

21 ~~(6)~~ The treatment of section 108.04 (1) (f) of the statutes first applies with  
 22 respect to benefit years established on the effective date of this subsection.

1           ~~(7)~~ The treatment of sections 108.04 (1) (g) (intro.) and 108.06 (1) (with respect  
2 to payment of extended training benefits), (2) (c) and (cm), (3), (6) (intro.) and (7) of  
3 the statutes first applies with respect to weeks of unemployment beginning on the  
4 effective date of this subsection.

5           ~~(8)~~ The treatment of section 108.04 (1) (hm) of the statutes first applies with  
6 respect to weeks of unemployment beginning on the effective date of this subsection.

7           ~~(9)~~ The amendment of section 108.04 (2) (a) 2. and 3. (intro.) of the statutes first  
8 applies with respect to weeks of unemployment beginning on the effective date of this  
9 subsection.

10           ~~(10)~~ The treatment of section 108.04 (2) (a) 4. and 5. and (15) of the statutes first  
11 applies with respect to weeks of unemployment beginning on the effective date of this  
12 subsection.

13           ~~(11)~~ The treatment of section 108.04 (2) (g) of the statutes first applies with  
14 respect to weeks of unemployment beginning on the effective date of this subsection.

15           ~~(12)~~ The treatment of section 108.04 (2) (h) and (12) (f) of the statutes first  
16 applies with respect to weeks of unemployment beginning on the effective date of this  
17 subsection.

18           ~~(13)~~ The treatment of section 108.04 (2) (i) of the statutes first applies to  
19 claimants who are newly hired by a temporary help company, as defined in section  
20 108.02 (24m) of the statutes, on the effective date of this subsection.

21           ~~(14)~~ The treatment of section 108.04 (8) (a) and (c) of the statutes first applies  
22 with respect to benefit years which begin on the effective date of this subsection, in  
23 connection with new claims filed for unemployment compensation benefits on or  
24 after that date for which a failure to accept or return to work does not affect the  
25 claimant's eligibility under any claim filed before that date.

1 (15) The treatment of section 108.05 (2) (c) of the statutes first applies with  
2 respect to weeks of unemployment beginning on January 5, 2014.

3 (16) The treatment of section 108.05 (3) (cm) of the statutes and the amendment  
4 of section 108.05 (3) (c) (intro.) of the statutes first apply to notices submitted by  
5 employers to the department of workforce development for complete business  
6 shutdowns that will occur on state or federal holidays in the year 2015.

7 (17) The treatment of section 108.16 (8) (b) 4. of the statutes first applies with  
8 respect to transfers of businesses occurring after December 31, 2013.

9 (18) The treatment of sections 108.06 (1) (with respect to the maximum  
10 duration of regular benefits) and (1m) and 108.142 (4) of the statutes first applies  
11 with respect to benefit years established after June 30, 2014.

12 (19) The treatment of section 108.18 (4) (figure) Schedule A lines 23. to 26.,  
13 Schedule B lines 23. to 26., Schedule C lines 23. to 26., and Schedule D lines 23. to  
14 26. and (9) (figure) Schedule A lines 25 to 27, Schedule B lines 25 to 27, Schedule C  
15 lines 24 to 27, and Schedule D lines 25 to 27 of the statutes first applies with respect  
16 to payrolls beginning on January 1, 2015.

17 (20) The treatment of section 108.22 (1) (a) of the statutes (with respect to the  
18 amount of tardy filing fees) first applies with respect to reports required to be filed  
19 for the first quarter beginning after the effective date of this subsection.

20 (21) The treatment of sections 108.22 (1) (a) and (cm) of the statutes (with  
21 respect to interest on delinquent payments) first applies with respect to accrual of  
22 interest for the first quarter beginning after the effective date of this subsection.

23 **SECTION 269. Effective dates.** This act takes effect on the first Sunday after  
24 publication, except as follows:

and

1 (1) The repeal and recreation of sections 108.04 (2) (a) 2. and 3. (intro.) and  
2 108.05 (1) (q) (intro.) (r) (intro.) and (3) (a) and (c) (intro.) of the statutes takes effect  
3 on June 30, 2013, or on the first Sunday after publication, whichever is later.

4 (2) The treatment of section 108.19 (1m) (by SECTION 133) of the statutes and  
5 the repeal of section 20.445 (1) (fx) of the statutes take effect on July 1, 2015.

6 (END)

d-note



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1975/P7dn  
JTK&MED:cjs:jf

P8 dv

~~May 9, 2013~~

today's date

Stuy

Representative Knodl:

1. This draft is the initial draft of your items 2, 3, 4, 6, 7, 8, 9, 10, 11, 14 (all components), 15 (all components), 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, and 33 (Sussman memo to UIAC, 4/22/13). We are working on other items at this time and will be reviewing them with the DWD legal staff. Several items have been revised based upon your instructions on April 25. The other items will be added in successive redrafts when we have all the information we need to reduce them to draft format.

2. Regarding the item related to excluding employment by prison inmates, please note that we also repealed s. 108.07 (8), stats., in conjunction with the exclusion, because this provision would appear to no longer ever be applicable as a result of the exclusion. If this provision should instead be retained or otherwise modified, let us know. Also, we included this repeal within the initial applicability provision for the exclusion of prison inmates. Please let us know if the repeal of s. 108.07 (8), stats., should instead have its own initial applicability provision.

3. With respect to the suspension and requalification requirements for claimants who lose licenses required for them to perform their work under s. 108.04 (1) (f), this draft includes only the changes to charging of benefits that were approved by the UIAC.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

Michael Duchek  
Legislative Attorney  
Phone: (608) 266-0130  
E-mail: michael.duchek@legis.wisconsin.gov

- ① 2. Upon consultation with DWD legal staff, we determined that the current language in s. 108.14 (7) (a) stats. is adequate to allow DWD to withhold its digest if LIRC decisions under proposed s. 108.14(22) from prior employers.
- ② 3. Changes to the analysis item Failure of claimants to provide requested information will appear in the next version.

INS 4A:

**Misconduct**

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11A

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\* Currently, if an employee is discharged for misconduct connected with his or her employment (interpreted by the courts to include only misconduct that evinces willful or wanton disregard of an employer's interests as is found in deliberate violations or disregard of standards of behavior that the employer has a right to expect of his or her employees, or carelessness or negligence to such degree or recurrence as to manifest culpability, wrongful intent, or evil design of the same level of severity as that disregard, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer) the employee is ineligible to receive benefits until seven weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages, or certain other amounts treated as wages, after the week in which the discharge occurs \*equal to at least 14 times the employee's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government. In addition, all wages earned with the employer that discharges the employee are excluded in determining the amount of any future benefits to which the employee is entitled. However, if an employee is discharged for failing to notify an employer of absenteeism or tardiness that becomes excessive under certain conditions, the employee is ineligible to receive benefits until at least six weeks have elapsed since the end of the week in which the discharge occurs and until the employee earns wages, or certain other amounts treated as wages, after the week in which the discharge occurs equal to at least six times the employee's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government.

15

9 of

STET

11A

\* This bill deletes the current suspension and requalifying requirement for discharges resulting from absenteeism or tardiness but retains and modifies the current suspension and requalifying requirement for misconduct. The bill also creates a new suspension and requalifying requirement for discharges resulting from substantial fault by an employee. The bill defines "misconduct" to mean "one or more actions or conduct evincing such willful or wanton disregard of an employer's interests as found in one or more deliberate violations or disregard of standards of behavior which an employer has a right to expect of his or her employees, or carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional and substantial disregard of an employer's interests, or of an employee's \*duties and obligations to his or her employer. The bill also provides that "misconduct" specifically includes:

1. A violation by an employee of an employer's reasonable written policy concerning the use of alcohol beverages, or use of a controlled substance or controlled substance analog, if the employee has had knowledge of the policy and has either admitted to the use of alcohol beverages or a controlled substance or controlled

substance analog or tested positive for the use of alcohol beverages or a controlled substance or controlled substance analog in a test administered by the employer in accordance with a testing methodology approved by DWD.

2. Theft of an employer's property or services with intent to deprive the employer of the property or services permanently, theft of currency of any value, felonious conduct connected with an employee's employment, or intentional or negligent conduct by an employee that causes substantial damage to his or her employer's property.

3. Conviction <sup>of</sup> by an employee of a crime or other offense subject to civil forfeiture, while on or off duty, if the conviction makes it impossible for the employee to perform the duties that the employee performs for the employer.

4. One or more threats or acts of harassment, assault, or other physical violence instigated by an employee at the workplace of his or her employer.

5. Absenteeism by an employee on more than two occasions within a 120-day period, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt with his or her signature, or excessive tardiness by an employee in violation of a policy of the employer that has been communicated to the employee, if the employee does not provide to his or her employer both notice and one or more valid reasons for the absenteeism or tardiness.

6. Unless directed by an employee's employer, falsifying business records of the employer.

7. Unless directed by the employer, a willful <sup>STET</sup> and deliberate violation of a written and uniformly applied standard or regulation of the federal government or a state or tribal government by an employee of an employer that is licensed or certified by a governmental agency, which standard or regulation has been communicated by the employer to the employee and which violation would cause the employer to be sanctioned or to have its license or certification suspended by the agency.

In addition, the bill provides that an employee whose work is terminated by his or her employer for substantial fault by the <sup>ten</sup> employee connected with the employee's work is ineligible to receive benefits until 10 weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages, or certain other amounts treated as wages, after the week in which the termination occurs equal to at least ten times the employee's weekly benefit rate in employment covered by the unemployment insurance law of any state or the federal government. The bill defines "substantial fault" to include those acts or omissions of an employee over which the employee exercised reasonable control and which violate reasonable requirements of the employee's employer but not to include:

1. One or more minor infractions of rules unless an infraction is repeated after the employer warns the employee about the infraction.
2. One or more inadvertent errors made by the employee.
3. Any failure of the employee to perform work because of insufficient skill, ability, or equipment.

INS 16A

third-

**Departmental errors; payments to unintended payees; actions against 3rd party interceptors ~~transferees~~**

Currently, DWD is directed to waive recovery of benefits that were erroneously paid if the overpayment results from a departmental error and was not the fault of any employer, and the overpayment was not the fault of an employee or did not result from a claimant's false statement or misrepresentation. This bill directs DWD to waive recovery of an overpayment regardless of whether it results from the fault of an employer. The bill also provides specifically that "departmental error" does not include, and recovery is not waived, if DWD makes an error in computing, paying, or crediting benefits to any individual, whether or not a claimant, or in crediting contributions or reimbursements to one or more employers that results from 1) a computer malfunction or programming error; 2) an error in transmitting data to or from a financial institution; 3) a typographical or keying error; or 4) a bookkeeping or other payment processing error; 5) an action by DWD resulting from a false statement or representation by an individual; or 6) an action by DWD resulting from an unauthorized manipulation of an electronic system from within or outside DWD.

The bill provides that if DWD determines that a payment has been made to an unintended recipient erroneously without fault on the part of the intended payee, DWD may issue the correct payment to the intended payee if necessary and may recover the amount of the erroneous payment from the recipient using existing recovery procedures, if any, or a new recovery procedure created by the bill (see below). Currently, there is no similar provision.

Under current law, any person who knowingly makes a false statement or representation to obtain a benefit payment personally or for another person is guilty of a misdemeanor and may be fined not less than \$100 nor more than \$500, or imprisoned for not more than 90 days, or both, and in addition may be subject to forfeiture of certain benefit payments that may be otherwise payable. Currently, DWD is not authorized to recover improper payments directly from 3rd party payees or transferees. This bill permits DWD to bring a legal action against any person, including a transferee, to preserve and recover the proceeds of any payment from the unemployment reserve fund not resulting from a departmental error if the person receives, possesses, or retains such a payment or if the proceeds are in an account at a financial institution. The bill also permits DWD to sue for injunctive relief to require a payee, transferee, or other person, including a financial institution, in possession of the proceeds from any payment from the fund to preserve the proceeds and to prevent the transfer or use of the proceeds upon showing that the payee, transferee, or other person is not entitled to receive, possess, or retain the proceeds pending final disposition of the matter by the court.

third-

INS

ZWS 4/2-15

SECTION 1. 108.02 (3) of the statutes is created to read:

108.02 (3) ALCOHOL BEVERAGE "Alcohol beverage" has the meaning given in s. 125.02 (1).

SECTION 2. 108.02 (9) of the statutes is created to read:

108.02 (9) CONTROLLED SUBSTANCE. "Controlled substance" has the meaning given in s. 961.01 (4).

SECTION 3. 108.02 (9m) of the statutes is created to read:

108.02 (9m) CONTROLLED SUBSTANCE ANALOG. "Controlled substance analog" has the meaning given in s. 961.01 (4m).

SECTION 4. 108.02 (10e) of the statutes is renumbered 108.02 (10e) (a) and amended to read:

108.02 (10e) (a) DEPARTMENTAL ERROR. "Departmental error" means an error made by the department in computing or paying benefits which results exclusively from:  $\Phi$  sec. #. RN; 108.02(10e)(a) and (b) ; 108.02(10e)(am) 1. and 2.

1. A mathematical mistake, miscalculation, misapplication or misinterpretation of the law or mistake of evidentiary fact, whether by commission or omission; or

2. Misinformation provided to a claimant by the department, on which the claimant relied.

History: 1971 c. 53; 1971 c. 213 s. 5; 1973 c. 247; 1975 c. 223, 343; 1975 c. 373 s. 40; 1977 c. 29, 133; 1979 c. 52, 221; 1981 c. 36, 353; 1983 a. 8 ss. 4 to 12, 54; 1983 a. 168; 1983 a. 189 ss. 158 to 161, 329 (25), (28); 1983 a. 384, 477, 538; 1985 c. 17, 29, 332; 1987 a. 38 ss. 6 to 22, 134; 1987 a. 255; 1989 a. 31; 1989 a. 56 ss. 151, 259; 1989 a. 77, 303; 1991 a. 89; 1993 a. 112, 213, 373, 492; 1995 a. 27 ss. 3777, 9136 (4); 1995 a. 118, 225; 1997 a. 3, 27, 39; 1999 a. 15, 82, 83; 2001 a. 35, 103, 105; 2003 a. 197; 2005 a. 25, 86, 149, 441; 2007 a. 20 s. 9121 (6) (a); 2007 a. 59; 2009 a. 180, 287; 2011 a. 32, 123.

SECTION 5. 108.02 (10e) (b) of the statutes is created to read:

108.02 (10e) (b) "Departmental error" does not include an error made by the department in computing, paying, or crediting benefits to any individual, whether





or not a claimant, or in crediting contributions or reimbursements to one or more employers that results from any of the following:

1. A computer malfunction or programming error.
2. An error in transmitting data to or from a financial institution.
3. A typographical or keying error.
4. A bookkeeping or other payment processing error.
5. An action by the department resulting from a false statement or representation by an individual, including a statement or representation relating to the individual's identity.
6. An action by the department resulting from an unauthorized manipulation of an electronic system from within or outside the department.

*end*  
*INS 42-23*

↓  
INS 45-13

**SECTION 6.** 108.04 (1) (i) of the statutes is amended to read:

108.04 (1) (i) A claimant who does not provide information sufficient for the department to determine whether the claimant has been discharged for misconduct connected with his or her employment, <sup>has been</sup> discharged for substantial fault connected with his or her employment, has voluntarily terminated his or her work, has failed without good cause to accept suitable work when offered, or has failed to return to work with a former employer that recalls the employee within 52 weeks after the employee last worked for that employer is not eligible to receive benefits for the week in which the discharge, termination or failure occurs or any subsequent week. If a claimant later provides the information and has good cause for the initial failure to provide the information, he or she is eligible to receive benefits as of the week in



which the discharge, termination or failure occurred, if otherwise qualified. If a claimant later provides the information but does not have good cause for the initial failure to provide the information, he or she is eligible to receive benefits as of the week in which the information is provided, if otherwise qualified.

**History:** 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

(end)  
INS  
45-13

**SECTION 7.** 108.04 (5) of the statutes is renumbered 108.04 (5) (intro.) and

amended to read:

no B

<move>

108.04 (5) (intro.) DISCHARGE FOR MISCONDUCT. ~~Unless sub. (5g) results in~~

disqualification, ~~an~~ An employee whose work is terminated by an employing unit for misconduct by the employee connected with the employee's work is ineligible to receive benefits until 7 weeks have elapsed since the end of the week in which the discharge occurs and the employee earns wages after the week in which the discharge occurs equal to at least 14 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's weekly benefit rate shall be ~~that~~ the rate ~~which~~ that would have been paid had the discharge not occurred. The wages paid to an employee by an employer which terminates employment of the employee for misconduct connected with the employee's employment shall be excluded from the employee's base period wages under s. 108.06 (1) for purposes of benefit entitlement. This subsection does not preclude an employee who has employment with an employer other than the employer which terminated the employee for misconduct from establishing a benefit year using the base period wages excluded under this subsection if the employee qualifies to establish a benefit year under s. 108.06 (2) (a). The department shall charge to the fund's balancing account any benefits otherwise chargeable to the

INS  
49-4  
✓



STET (leave as typed)



account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 from which base period wages are excluded under this subsection. For purposes of this subsection, "misconduct" means one or more actions or conduct evincing such willful or wanton disregard of an employer's interest as found in one or more deliberate violations or disregard of standards of behavior which an employer has a right to expect of his or her employees, or carelessness or negligence of such degree or recurrence as to manifest culpability, wrongful intent, or evil design of equal severity to such disregard, or to show an intentional and substantial disregard of an employer's interests, or of an employee's duties and obligations to his or her employer. In addition, "misconduct" includes:

15

History: 1971 c. 40, 42, 53, 211; 1973 c. 247; 1975 c. 24, 343; 1977 c. 127, 133, 286, 418; 1979 c. 52, 176; 1981 c. 28, 36, 315, 391; 1983 a. 8, 27, 99, 168; 1983 a. 189 s. 329 (28); 1983 a. 337, 384, 468, 538; 1985 a. 17, 29, 40; 1987 a. 38 ss. 23 to 59, 107, 136; 1987 a. 255, 287, 403; 1989 a. 77; 1991 a. 89; 1993 a. 112, 122, 373, 492; 1995 a. 118, 417, 448; 1997 a. 35, 39; 1999 a. 9, 15, 83; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 11, 287; 2011 a. 32, 123, 198, 236.

**SECTION 8. 108.05** (5) (a) to (g) of the statutes are created to read:

108.05 (5) (a) A violation by an employee of an employer's reasonable written policy concerning the use of alcohol beverages, or use of a controlled substance or a controlled substance analog, if the employee has:

04

1. Had knowledge of the alcohol beverage or controlled substance policy; and
2. Admitted to the use of alcohol beverages or a controlled substance or controlled substance analog or tested positive for the use of alcohol beverages or a controlled substance or controlled substance analog in a test used by the employer in accordance with a testing methodology approved by the department.

(b) Theft of an employer's property or services with intent to deprive the employer of the property or services permanently, theft of currency of any value, felonious conduct connected with an employee's employment with his or her employer, or intentional or negligent conduct by an employee that causes substantial damage to his or her employer's property.







(c) Conviction <sup>by</sup> <sup>of</sup> an employee of a crime or other offense subject to civil forfeiture, while on or off duty, if the conviction makes it impossible for the employee to perform the duties that the employee performs for his or her employer.

(d) One or more threats or acts of harassment, assault, or other physical violence instigated by an employee at the workplace of his or her employer.

(e) Absenteeism by an employee on more than 2 occasions within a 120-day period, unless otherwise specified by his or her employer in an employment manual of which the employee has acknowledged receipt with his or her signature, or excessive tardiness by an employee in violation of a policy of the employer that has been communicated <sup>ed</sup> to the employee, if the employee does not provide to his or her employer both notice and one or more valid reasons for the absenteeism or tardiness.



(f) Unless directed by an employee's employer, falsifying business records of the employer.

(g) Unless directed by the employer, a willful <sup>↓ SET: leave as typed</sup> and deliberate violation of a written and uniformly applied standard or regulation of the federal government or a state or tribal government by an employee of an employer that is licensed or certified by a governmental agency, which standard or regulation has been communicated by the employer to the employee and which violation would cause the employer to be sanctioned or to have its license or certification suspended by the agency.

**SECTION 9.** 108.04 (5g) of the statutes is repealed and recreated to read:

108.04 (5g) DISCHARGE FOR SUBSTANTIAL FAULT. (a) An employee whose work is terminated by an employing unit for substantial fault by the employee connected with the employee's work is ineligible to receive benefits until 10 weeks have elapsed since the end of the week in which the discharge occurs and the employee earns





wages after the week in which the termination occurs equal to at least 10 times the employee's weekly benefit rate under s. 108.05 (1) in employment or other work covered by the unemployment insurance law of any state or the federal government. For purposes of requalification, the employee's benefit rate shall be the rate that would have been paid had the discharge not occurred. For purposes of this paragraph, "substantial fault" includes those acts or omissions of an employee over which the employee exercised reasonable control and which violate reasonable requirements of the employee's employer but does not include any of the following:

1. One or more minor infractions of rules unless an infraction is repeated after the employer warns the employee about the infraction.
2. One or more inadvertent errors made by the employee.
3. Any failure of the employee to perform work because of insufficient skill, ability, or equipment.

(b) The department shall charge to the fund's balancing account the cost of any benefits paid to an employee that are otherwise chargeable to the account of an employer that is subject to the contribution requirements under ss. 108.17 and 108.18 if the employee is discharged by the employer and paragraph (a) applies.

INS 49-

INS 79-17

x ^

**SECTION 10.** 108.16 (3) (c) of the statutes is created to read:

108.16 (3) (c) Any nonrecoverable payment made without fault on the part of the intended payee.

x ^

**SECTION 11.** 108.16 (6) (o) of the statutes is created to read:

108.16 (6) (o) Any erroneous payment recovered under s. 108.22 (8e).



INS 79-21

**SECTION 12.** 108.16 (6m) (h) of the statutes is created to read:

108.16 (6m) (h) Any amount paid to correct a payment under s. 108.22 (8e) that is not recovered or recoverable.

INS 90-12

**SECTION 13.** 108.22 (8) (c) 1. a. of the statutes is amended to read:

108.22 (8) (c) 1. a. The overpayment was the result of a departmental error ~~and was not the fault of any employer under s. 108.04 (13) (f); and~~

History: 1973 c. 247; Sup. Ct. Order, 67 Wis. 2d 585, 774 (1975); 1975 c. 343; 1979 c. 52; 1981 c. 36; 1985 a. 17, 29; 1987 a. 38; 1989 a. 77; 1991 a. 89; 1993 a. 112, 373; 1995 a. 224; 1997 a. 39; 1999 a. 15; 2001 a. 35; 2003 a. 197; 2005 a. 86; 2007 a. 59; 2009 a. 287; 2011 a. 198, 236.

**SECTION 14.** 108.22 (8e) of the statutes is created to read:

108.22 (8e) If the department determines a payment has been made to an unintended recipient erroneously without fault on the part of the intended payee, the department may issue the correct payment to the intended payee if necessary, and may recover the amount of the erroneous payment from the recipient under this section or s. 108.225 or 108.245.

**SECTION 15.** 108.245 of the statutes is created to read:

INS 103-15

**108.245 Recovery of erroneous payments from fund.** (1) The department may commence an action to preserve and recover the proceeds of any payment from the fund not resulting from a departmental error, including any payment to which the recipient is not entitled, from any transferee or other person that receives, possesses, or retains such a payment or from any account, including an account at any financial institution, resulting from the transfer, use, or disbursement of such a payment.



7/25/40-5

(1)(i)

(#) The treatment of sections 108.02 (3), (9), and (9m) and 108.04 (5) and (5g) of the statutes first <sup>e apply</sup> applies with respect to discharges occurring on the first Sunday that follows the 90th day beginning after the effective date of this subsection.

NONSTATUTE APP

LPS:  
replace  
pound sign  
with autonumber

the renumbering and amendment of section 108.04 (5) of the statutes and the creation of section 108.04 (5) (a) to (g) of the statutes

108.10 (intro.)

(with respect to recovery of erroneous payments) ↑

(2) The department may sue for injunctive relief to require the payee, transferee or other person, including a financial institution, in possession of the proceeds from any payment from the fund to preserve the proceeds and to prevent the transfer or use of the proceeds upon showing that the payee, transferee or other person that receives, possesses, or retains the proceeds is not entitled to receive, possess, or retain the proceeds pending the final order of the court directing disposition of the proceeds. Upon entry of a final order of the court directing the proceeds to be transferred to the department, the payee, transferee, or other person in possession of the proceeds shall transfer the proceeds to the department.

(3) The existence of an administrative or other legal remedy for recovery of a payment under sub. (1) or the the failure of the department to exhaust any such remedy is not a defense to an action under sub. (1). A judgment entered by a court under this section may be recovered and satisfied under s. 108.225.

(end INS 103-15)

JNS 140-10

(intro.)

(#) The renumbering and amendment of section 108.02 (10e) of the statutes, the treatment of sections 108.16 (3) (c), (6) (o), and (6m) (h), 108.22 (8) (c) 1.a. and (8e) and 108.245 of the statutes, and the creation of section 108.02 (10e) (b) of the statutes first apply with respect to treatment of erroneous payments that are outstanding on the effective date of this subsection.

NON STAT INIT ADD

LPS:  
replace pound sign with automater

INS

the renumbering of section 108.02 (10e)(a) and (b) of the statutes ↑

## Knutson, Janell - DWD

---

**From:** Knutson, Janell - DWD  
**Sent:** Friday, May 03, 2013 5:12 PM  
**To:** Schulze, Connie R - DWD  
**Cc:** Sussman, Scott - DWD; Banicki, Amy - DWD; Schunk, Jason - DWD  
**Subject:** For item # 8 - D12-08

**Importance:** High

Connie,

This is the language the UIAC agreed to include in the agreed bill. This amends 108.04(1)(hm) and repeals 108.04(1)(i). The proposed change will provide broad authority for the department to suspend benefits when a claimant is not providing information. Once the information is provided, benefits will be paid/reinstated if the claimant is otherwise qualified for benefits.

BJ wanted a copy of the language. We will provide this to LRB on Monday when we meet with them.]

Thanks!

Janell

108.04(1)(hm) The department may require any claimant to appear before it and to answer truthfully, orally or in writing, any questions relating to the claimant's eligibility for benefits ~~and or~~ to provide such demographic information as may be necessary to permit the department to conduct a statistically valid sample audit of compliance with this chapter. A claimant is not eligible to receive benefits for any week in which the claimant fails to comply with a request by the department to provide the information required under this paragraph, or any subsequent week, until the claimant complies or satisfies the department that he or she had good cause for failure to comply with a request of the department under this paragraph. If a claimant later complies with a request by the department ~~or satisfies the department that he or she had good cause for failure to comply with a request,~~ the claimant is eligible to receive benefits as of the week in which the failure occurred, if otherwise qualified.

~~108.04(1)(i) A claimant who does not provide information sufficient for the department to determine whether the claimant has been discharged for misconduct connected with his or her employment, has voluntarily terminated his or her work, has failed without good cause to accept suitable work when offered, or has failed to return to work with a former employer that recalls the employee within 52 weeks after the employee last worked for that employer is not eligible to receive benefits for the week in which the discharge, termination or failure occurs or any subsequent week. If a claimant later provides the information and has good cause for the initial failure to provide the information, he or she is eligible to receive benefits as of the week in which the discharge, termination or failure occurred, if otherwise qualified. If a claimant later provides the information but does not have good cause for the initial failure to provide the information, he or she is eligible to receive benefits as of the week in which the information is provided, if otherwise qualified.~~

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1975/P9dn  
JTK&MED:cjs:ph

May 14, 2013

Representative Knodl:

1. This draft is the initial draft of your items 1, 2, 3, 4, 5, 6, 7, 8 (revised), 9, 10, 11, 14 (all components), 15 (all components), 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, and 33 (Sussman memo to UIAC, 4/22/13). We are working on other items at this time and will be reviewing them with the DWD legal staff. Several items have been revised based upon your instructions on April 25. The other items will be added in successive redrafts when we have all the information we need to reduce them to draft format.

Jeffery T. Kuesel  
Managing Attorney  
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### Comments on eighth draft legislation:

- ✓ (a) Section 15 creating 20.445 the fee for the handbooks that the Department charges employers for printing it must, according to Tom, go to reimburse the UI grant the Department gets from the feds since UI grant money will be used to create it.
- NA (b) Section 76 amendments to s. 108.04 (2) (a) 3. does not include additional sentence with respect to work search that was requested by Legislative Fiscal Bureau; and same concern with Section 77;
- ✓ (c) Section 79 amendments to s. 108.04 (2) (a) 4. and 5. needs to make this an ongoing requirement per instructions from Florida officials for conformity issues;
- ✓ (d) Section 80 amendments to s. 108.04 (2) (g) 2. is not what was proposed and agreed by the Council with Department Proposal D12-03 changes it so if the claimant releases security credentials are releases to another person the Department is not obligated to pursue recovery of, or reimburse the claimant for improperly paid benefits. Original intent was to make that claimant strictly liable for improper payments;
- ✓ (e) Section 82 amendments to s. 108.04 (2) (i) 2. b. do want to specify that “claimant was not informed” language means the temporary help company – says it earlier that the informing should be done by the temporary help company
- ✗  
as is (f) Section 82 amendments to s. 108.04 (2) (i) what if the claimant is waived from work search requirement should be waived from contacting temporary help company also;
- ✓ (g) Section 82 amendments to s. 108.04 (2) (i) do want to place language that does not override the provisions of s. 108.04 (8). that a claimant when contacting the temporary help agency is only required to accept an assignment if the assignment represents suitable work. Placing this language in may avoid issues with federal conformity - When a jobless worker is collecting UI, federal regulations (20 CFR 604.5) provide that an individual may limit availability to jobs that are considered suitable for the individual as defined by state law;
- OK  
as is (h) Section 84 three times uses the term “alcohol beverage” and it should be “alcoholic beverage”;
- (i) Section 84 amends s. 108.04 (5) (e) which reads “Absenteeism by an employee on more than 2 occasions within a 120-day period . . .” would like it to read ““Absenteeism by an employee on more than 2 occasions within a 120-day period before the termination. . . .”
- ✓ (j) Sections 84 and 85 amend the misconduct standard and create the substantial fault standard. The Department’s proposal was originally to make both standards have the same requalification framework of ten by ten. The only difference would be that if a claimant is disqualified for benefits based on the substantial fault standard he or she would be able to have the money earned from that employer in determining his or her benefit rate.
- ✓ (k) Section 87 amendments to s. 108.04 (7) (d), (g), (j), (k), (m), (n), (o), (p) and (r) that repeals these provisions changes the provisions that were originally proposed to be repealed. Originally the proposal was to also repeal s. 108.04 (7) (cm) (L) and (q). Also originally the proposal was to amend s. 108.04 (7) (p) and not repeal this provision. The letter from the state legislators stated that it wanted to



remain consistent with the Department's original proposal with respect to what quit exemptions to eliminate. Same changes will need to be made to Section 89 and Section 115 with respect to the changes made to s. 108.14 (8n) (e) and Section 124;

(l) Section 105 creation of s. 108.05 (3) (cm) 1. would recommend changing the language to:

✓ a. a. "Complete business shutdown" means that all locations operated by an employer are closed for business completely and no employee employed by the business is required by the employer to or does report for work or be required to be available for work.

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b. 2. An employer may, on or before December 1, provide to the department a written notice designating that the employer will undergo a complete business shutdown on one or more state or federal holidays in the succeeding calendar year. An employer may not designate more than 7 state or federal holidays under this subdivision for a complete business shutdown during the succeeding calendar year and may only designate 1 holiday date per week from amongst the list of potential holiday dates provided under s. 108.05 (3) (cm) 1 b.

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✓ c. The language currently provides "3. A notice under subd. 2. is not valid for any year subsequent to the succeeding year." This, however, is problematic because as the proposal stands a business will give a notice prior to Dec. 1 of 2019 and this will enable them to select Dec. 25 of 2020 as a possible date, but not Dec. 25 of 2019.

✓ d. Under s. 108.05 (3) (cm) 4 – It would be good to actually add language that the business has to actually be closed.

✓ (m) Section 112 repeals the extended training benefits program. In order to avoid a claimant being cut-off midstream while attending a training program the effective date should apply that when it becomes effective the Department shall no longer enroll other claimants into the program, but that already enrolled claimants may continue to collect benefits until they are no longer eligible;

(n) Section 120 creates s. 108.14 (23) (b) and some suggested changes to this language would be:

✓ 2. A description of the rights and responsibilities of employers under this chapter, including the rights and responsibilities associated with hearings to establish whether workers are generally eligible ~~eligibility~~ for benefits under this chapter.

✓ 3. A description of the circumstances under which claimants are generally eligible and ineligible for benefits under this chapter.

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5. A line to allow an employee to sign to acknowledge that the employee is aware of the contents of the handbook.

This last sentence may be problematic because I am sure some employers who want there workers to be classified as independent contractors would want the independent contractor to sign this handbook.

— (o) Section 120 need for longer discussion.

X (p) Section 154 creates s. 108.223 with respect to the financial record matching program. Originally the statutory language was going to be to simply add this provision as part of Chapter 71, but LRB recommended that it should be

contained in Chapter 108 – Tax is wondering if we need to define "person" as DOR did in Chap. 71? Without defining banks may not comply with our intent for corporations? Current Wis. Stat §71.91 defined person as follows:

Person" includes any individual, firm, partnership, limited liability company, joint venture, joint stock company, association, public or private corporation, estate, trust, receiver, personal representative, and other fiduciary, and the owner of a single-owner entity that is disregarded as a separate entity under this chapter.

Although "person" is defined in various sections of the statutes, Chapter 108 has no definition of "person." We should borrow this definition but solely make the definition of "person" included only apply with respect to s. 108.223;