

2019 DRAFTING REQUEST

Bill

For: **Legislative Fiscal Bureau** Drafter: **mmcgreev**
 By: **Ryan** Secondary Drafters:
 Date: **4/10/2020** May Contact:

Same as LRB:

Submit via email: **YES**
 Requester's email: **ryan.horton@legis.wisconsin.gov**
 Carbon copy (CC) to: **MaryAlice.McGreevy@legis.wisconsin.gov**
cathlene.hanaman@legis.wisconsin.gov
michael.duchek@legis.wisconsin.gov
rick.champagne@legis.wisconsin.gov
Becky.Hannah@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Rebuttable presumption of injury caused by COVID-19 to first responder

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mmcgreev 4/10/2020	ccarmich 4/10/2020			
/P1	mmcgreev 4/10/2020	csicilia 4/10/2020	wjackson 4/10/2020		State S&L
/P2			anienaja 4/10/2020		State S&L

FE Sent For:

<END>

Barman, Mike

From: Horton, Ryan
Sent: Friday, April 10, 2020 3:11 PM
To: McGreevy, Mary Alice
Cc: Duchek, Michael; Champagne, Rick; Hanaman, Cathlene
Subject: FW: COVID WC
Attachments: COVID WC (002).docx; ATT00001.htm

Hi Mary Alice,

Could you please draft what is included in the attached word doc. We don't know yet if this will be in the final bill, but I'd like to get it ready to go, just in case.

Not sure if you can build off of the Gov.'s WC draft....it seems pretty different as compared to the Gov's proposal.

Thanks - Ryan

Ryan Horton, Fiscal Analyst
Legislative Fiscal Bureau
One East Main St., Suite 301
Madison, WI 53703
(608) 266-3847

From: Lang, Bob <Bob.Lang@legis.wisconsin.gov>
Sent: Friday, April 10, 2020 1:59 PM
To: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>; Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>; Champagne, Rick <Rick.Champagne@legis.wisconsin.gov>; Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
Subject: FW: COVID WC

From: Smith, Heather <Heather.Smith@legis.wisconsin.gov>
Sent: Friday, April 10, 2020 1:27 PM
To: Lang, Bob <Bob.Lang@legis.wisconsin.gov>
Subject: FW: COVID WC

Here is suggested language if we end agreeing to this.

From: Toftness, Jenny <Jenny.Toftness@legis.wisconsin.gov>
Sent: Friday, April 10, 2020 12:42 PM
To: Smith, Heather <Heather.Smith@legis.wisconsin.gov>; Ottman, Tad <Tad.Ottman@legis.wisconsin.gov>; Romportl, Dan <Dan.Romportl@legis.wisconsin.gov>
Subject: Fwd: COVID WC

In case we agree to this.

Sent from my iPhone

Begin forwarded message:

From: Andy Franken <afranken@wial.com>
Date: April 10, 2020 at 12:39:12 PM CDT
To: "Toftness, Jenny" <Jenny.Toftness@legis.wisconsin.gov>
Subject: COVID WC

Jenny, here is the language... in addition to limiting it to certain front line professions, the four key provisions: rebuttable presumption, no retroactivity, end date and positive test. We do not support anything beyond this type of provision.

Thanks,

Andy

Andrew J. Franken
President
Wisconsin Insurance Alliance
608.255.1749 (o)
608.576.1546 (c)
www.wial.com
@AJF_WIA

COVID-19 EMERGENCY RULES

FRAMEWORK FOR WORKERS COMPENSATION BENEFITS

1. Where a first response employee provides evidence that he or she was exposed to COVID-19 in the workplace, the first response employee is presumed to suffer a personal injury that arises out of and in the course of employment if he or she is also diagnosed with COVID-19 by a physician or as the result of a test. Such presumption may be rebutted by specific evidence that the first response employee contracted COVID-19 through other than work-related activity.

2. Absent a diagnosis as the result of a test, no employee of any kind shall be entitled to wage loss benefits under the [Relevant State Workers Compensation Act] during periods of work stoppage due to being directed or ordered to quarantine or otherwise self-isolate.

3. As used in these rules, "first response employee" means a person who, within the scope of their employment, has regular, personal contact or close personal proximity with patients or other members of the public requiring emergency services, and who is employed in one of the following roles:

(a) A person working in ambulance operations, advanced mobile emergency care services, county medical care facilities, emergency services, emergency medical services, or hospitals.

(b) A physician, physician assistant, nurse, emergency medical technician, paramedic, or respiratory therapist.

(c) A police officer, firefighter, emergency medical technician, or member of an emergency rescue team.

(d) A member of the state police.

4. This section shall apply for claims filed after the effective date of the Act and up to 30 days after the State of Emergency has been lifted.

Barman, Mike

From: Ferguson, Paul
Sent: Friday, April 10, 2020 5:41 PM
To: Horton, Ryan; McGreevy, Mary Alice
Subject: RE: COVID WC

Mary Alice,
If I may pinch hit for Ryan while he attends to some other matters...

I think we're good on the draft! With regard to Qs 1, 3 and 4, we like the approach in your drafting and think it reflects the legislators' intent as we understand it.

One little tweak: There's a double "declared" on line 9, p. 2. I don't know if a P2 is in order, or if that can get picked up later. I just want to make sure my in list reflects the correct version number. Let me know if you have a suggestion.

Thanks!

--Paul

From: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Sent: Friday, April 10, 2020 4:37 PM
To: McGreevy, Mary Alice <MaryAlice.McGreevy@legis.wisconsin.gov>
Cc: Ferguson, Paul <Paul.Ferguson@legis.wisconsin.gov>
Subject: RE: COVID WC

Thanks Mary Alice. I'll try to get answers to these questions.

From: McGreevy, Mary Alice <MaryAlice.McGreevy@legis.wisconsin.gov>
Sent: Friday, April 10, 2020 4:35 PM
To: Horton, Ryan <Ryan.Horton@legis.wisconsin.gov>
Subject: RE: COVID WC

Hi Ryan,

I've sent through a draft, because we wanted to get you something quickly, but a few questions:

1. Is the injury required to be proven by a diagnosis or positive test? Paragraphs 1 & 2 of the instructions seem to conflict.
2. Regarding paragraph 2, if there is no injury, there is no liability under ch. 102. Being required to stay home isn't an injury.
3. Did they want the injury to only be from the effective date of the act until 30 days after termination of the EO? I drafted it for the whole period, but can change that.
4. I drafted with a slightly broader definition of first responder. Under the instructions, for example, sheriffs, deputies, correctional officers, etc., wouldn't be included, and neither would any staff at a medical facility who are not at a hospital who are not nurses, physicians, etc. We can also re-draft that.

Thanks,

M.A.

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Cc: Duchek, Michael <Michael.Duchek@legis.wisconsin.gov>; Champagne, Rick <Rick.Champagne@legis.wisconsin.gov>; Hanaman, Cathlene <Cathlene.Hanaman@legis.wisconsin.gov>
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**2019-2020 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-6155/P1ins
MIM:cdc

Correction:

Page 2, line 9, delete one instance of “declared”.

Thanks!



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6155/P1
MIM:cdc

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to create* 102.03 (6) and 102.565 (6) of the statutes; **relating to:**
2 rebuttable presumption that injury to a first responder related to COVID-19
3 was caused by employment for purposes of worker's compensation.

Analysis by the Legislative Reference Bureau

EMPLOYMENT

WORKER'S COMPENSATION

Rebuttable presumption that injury caused to first responders during current public health emergency is caused by employment

This bill provides that, for the purposes of worker's compensation, an injury caused to a first responder, during any public health emergency declared by the governor on March 12, 2020, by executive order 72 and ending 30 days after the termination of the order, is presumed to be caused by the individual's employment. The presumption requires a diagnosis or positive test for COVID-19, and may be rebutted by specific evidence that the injury was caused outside of employment.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6155/P2
MIM:cdc

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