

CHAPTER 527

AN ACT to repeal 108.05 (2m) and 108.061 (4); to renumber 108.18 (8) (c); to amend 108.02 (4) (b), (d) and (g) 3, 108.03 (2) (b), 108.04 (11) (a) and (13) (a), 108.05 (1) (schedule) line 25, 108.15 (9) (a), 108.16 (8) (a) (intro. par.) and 108.18 (2) and (3) (a) and (c); to repeal and recreate 108.04 (1) (c) and 108.18 (8) (i); and to create 108.02 (5) (g) 16, 108.04 (4) (af), (8) (d) and (12) (c), (d) and (e), 108.05 (1) (schedule) lines 26, 27 and 28, and (4), 108.07 (4), 108.15 (4) (fm), 108.16 (2) (f) and 108.18 (8) (c) 2 of the statutes, constituting recommendations made to the 1955 legislature pursuant to 108.14 (5m) by the statutory advisory committee, relating to unemployment compensation and therefore affecting the unemployment reserve fund.

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

SECTION 1. 108.02 (4) (b), (d) and (g) 3 of the statutes are amended to read:

108.02 (4) (b) Any other employer who is subject to the federal unemployment tax act * * * for any * * * calendar year shall become an "employer" subject hereto as of the beginning of such calendar year.

(d) Any other employer, who has employed as many as * * * 4 individuals in "employment" *on each of some 20 days during the taxable year, each day being in a different calendar week, the total number of individuals who were employed by him in employment for some portion of the day (whether or not at the same moment of time), effective after December 31, 1955,* shall become an "employer" subject hereto as of the * * * start of that calendar year on which such employment occurred. If an employer's records for a given calendar year do not permit accurate determination of his status on the foregoing basis, and the aggregate "wages" paid or payable for "employment" by him equalled or exceeded \$6,000 for such year, he shall become an "employer" subject hereto as of the * * * start of such year.

(g) 3. Has been covered by this chapter throughout each of the 2 most recently completed calendar years, but has, in each such year, had less than * * * 20 weeks (*lying wholly within that year*) within which he employed * * * 3 or more employees.

SECTION 2. 108.02 (5) (g) 16 of the statutes is created to read:

108.02 (5) (g) 16. Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 21 in the employ of his father or mother.

SECTION 3. 108.03 (2) (b) of the statutes is amended to read:

108.03 (2) (b) Benefits shall become payable from each employer's account beginning with the first week completed * * * 6 months after the first day of that calendar year within which his contributions first began to accrue under this chapter.

SECTION 4. 108.04 (1) (c) of the statutes is repealed and recreated to read:

108.04 (1) (c) A pregnant woman shall be deemed unavailable for work and ineligible for benefits for the period which begins 8 weeks before the week which includes the expected date of childbirth and which

ends 4 weeks after the week which includes the date of childbirth. The commission may require any such claimant to submit a doctor's certificate to establish such dates.

SECTION 5. 108.04 (4) (af) and (8) (d) of the statutes are created to read:

108.04 (4) (af) There shall be counted toward the "weeks of employment" required by par. (a) any federal service, within the relevant period, which is assigned to Wisconsin under an agreement pursuant to title XV of the social security act.

(8) (d) An employe shall be deemed to have good cause under par. (a) if the commission determines that his failure related to new work for a new employer at a lower grade of skill or significantly lower rate of pay than applied to him on one or more recent jobs, and that he had not yet had a reasonable opportunity (in view of labor market conditions and his degree of skill, but not to exceed 6 weeks after he became unemployed) to seek a new job substantially in line with his job skill and prior rate of pay.

SECTION 6. 108.04 (11) (a) of the statutes is amended to read:

108.04 (11) (a) If a claimant, in filing his claim for any week, conceals any part of his wages earned *in or paid* for that week, or conceals his refusal (within that week) of a job offer, * * * *so much of any benefit payment as was paid because of such concealment shall be recovered as an overpayment.*

SECTION 7. 108.04 (12) (c), (d) and (e) of the statutes are created to read:

108.04 (12) (c) Any individual who receives unemployment compensation for a given week under any federal law through any federal agency shall be ineligible for benefits paid or payable for that same week under this chapter.

(d) Any individual who receives unemployment compensation for a given week under the law of any other state (with no use of benefit credits earned under this chapter) shall be ineligible for benefits paid or payable for that same week under this chapter.

(e) Any individual who receives a temporary total disability payment under ch. 102 for a given week shall be ineligible for benefits paid or payable for that same week under this chapter.

SECTION 8. 108.04 (13) (a) of the statutes is amended to read:

108.04 (13) (a) The commission may take administrative notice of any fact indicating an employe's ineligibility, whether or not the employer has reported such fact or asserted the employe's ineligibility under this chapter * * *.

SECTION 9. 108.05 (1) (schedule) line 25 of the statutes is amended to read:

108.05 (1)

SCHEDULE

Line	Average Weekly Wage Class	Weekly Benefit Rate
25.	\$64.01 * * * to \$66.00	\$33

SECTION 10. 108.05 (1) (schedule) lines 26, 27 and 28 of the statutes are created to read:

108.05 (1)

SCHEDULE

Line	Average Weekly Wage Class	Weekly Benefit Rate
26.	\$66.01 to \$68.00 -----	\$34
27.	68.01 to 70.00 -----	35
28.	70.01 or more -----	36

SECTION 11. 108.05 (2m) of the statutes is repealed.

SECTION 12. 108.05 (4) of the statutes is created to read:

108.05 (4) HOLIDAY OR VACATION PAY. (a) An employe's holiday pay for a given week shall, for benefit purposes, be treated as wages for that week only if it has become definitely payable to the employe within 4 days after the close of that week.

(b) An employe's vacation pay shall, for benefit purposes, be treated as wages for a given week only if it has by the close of that week become definitely allocated and payable to the employe for that week and he has had due notice of such allocation; provided that, in any case where an employe's vacation pay has not been thus allocated to a given week, his employer may:

1. Allocate it to a future week of the employe's unemployment, with due notice to him and to the commission; or

2. Deduct from such pay, without penalty under s. 108.24, such benefits paid for a past week as the employe would not have received if such pay had been currently allocated to such week, in which event the employer shall promptly transmit the amount thus deducted to the commission for his account in the fund and the commission shall correct the employe's benefit credits accordingly.

SECTION 13. 108.061 (4) of the statutes is repealed.

SECTION 14. 108.07 (4) of the statutes is created to read:

108.07 (4) Once a benefit determination has been issued to an employe based on his work for a former employer, benefit payments and charges thereunder shall not be affected by any later determination that a subsequent employing unit was also a covered employer.

SECTION 15. 108.15 (4) (fm) of the statutes is created to read:

108.15 (4) (fm) As applied to any government unit which has limited its election by excluding one or more of its operating units, the "2 per cent" limit of par. (f) shall be figured on the "payroll" of all its operating units, as if all were covered by its election.

SECTION 16. 108.15 (9) (a) of the statutes is amended to read:

108.15 (9) (a) Any government unit which is subject to this chapter solely by its own election may terminate such coverage and election by written notice to the commission, * * * pursuant to s. 108.02 (4) (f) * * *.

SECTION 17. 108.16 (2) (f) of the statutes is created to read:

108.16 (2) (f) The commission shall promptly advise the employer as to each benefit check thus charged to his account.

SECTION 18. 108.16 (8) (a) (intro. par.) of the statutes is amended to read:

108.16 (8) (a) (intro. par.) If the business of any "employer" is transferred in whole or in part, the transferee shall be deemed a successor for the purposes of this chapter. An employing unit shall not be

deemed a successor, however, if the commission finds that there were less than * * * 20 weeks * * * *lying wholly* within the calendar year in which the transfer occurred (and also less than * * * 20 weeks * * * *lying wholly* within the preceding calendar year) within which the transferring "employer" employed as many as * * * 3 persons in employment subject to this chapter in connection with the business or portion thereof transferred. In case of the transfer of any of the assets of a covered employer's business by any means whatever, otherwise than in the ordinary course of trade, such transfer shall be deemed a transfer of business and shall constitute the transferee a successor hereunder, unless the commission, on its own motion or on application of an interested party, finds that all the following conditions exist:—

SECTION 19. 108.18 (2) and (3) (a) and (c) of the statutes are amended to read:

108.18 (2) An employer's contribution rate shall be 2.7 per cent on his payroll for each of the first * * * 3 calendar years with respect to which contributions are credited to his account, *and shall not exceed 3 per cent for the fourth such year.*

(3) (a) Benefits have been chargeable to the employer's account during the * * * 2 consecutive years preceding such date; and

(c) Permitting him to pay such lower rate is consistent with the *relevant conditions then* applicable to additional credit allowance for such year under section * * * 3303 (a) of the federal unemployment tax act, any other provision to the contrary notwithstanding.

SECTION 20. 108.18 (8) (c) of the statutes is renumbered 108.18 (8) (c) 1.

SECTION 21. 108.18 (8) (c) 2 of the statutes is created to read:

108.18 (8) (c) 2. The commission shall add, to the percentage of decrease thus computed, so much of any percentage of decrease similarly computed in the preceding year (or then determined under this subdivision) as was not then fully used in applying pars. (d) through (h); and shall treat the resulting sum as the percentage of decrease applicable hereunder.

SECTION 22. 108.18 (8) (i) of the statutes is repealed and recreated to read:

108.18 (8) (i) As to any employer newly covered by this chapter, whose liability for contributions hereunder first begins to accrue on wages paid in 1955 or thereafter, his gross wages paid for employment covered by this chapter shall be included in the determinations and computations made by the commission under pars. (b) and (c) when, and only when, he has been liable for contributions hereunder throughout both of the 2 most recent one-year periods covered by such determinations and computations; and any determination previously made for the earlier of those one-year periods shall be corrected accordingly in making the next computation required under par. (c).

SECTION 23. Section 108.14 (13) of the statutes shall apply to all changes, in ch. 108 of the statutes, effected by this act.

SECTION 24. The changes effected by this act in s. 108.05 (1) of the statutes shall apply only to those benefit determinations, issued under ch. 108 of the statutes, whose first benefit check is issued after the close of the calendar week in which this act is officially published.

The benefits payable under any earlier benefit determination, if its weekly benefit rate would otherwise be \$33, shall be increased to apply a

weekly benefit rate of \$34 to each benefit check issued thereunder after the close of the calendar week in which this act is officially published.

SECTION 25. The changes effected by this act in ss. 108.03 (2) (b) and 108.05 (4) of the statutes shall apply to all calendar weeks (and pay allocations) completed after October 1, 1955.

SECTION 26. Section 108.02 (5) (g) 16 of the statutes, as created by this act, shall apply at the close of 1955, except that it shall apply throughout 1955 for the purpose of determining an employing unit's 1956 coverage (based on 1955 employment) under ch. 108 of the statutes.

SECTION 27. The changes effected by this act in ss. 108.02 (4) (g), 108.15 (4), 108.16 (8), and 108.18 (2) and (3) of the statutes shall apply at the close of 1955.

SECTION 28. The changes effected by this act in ss. 108.04 and 108.07 of the statutes shall apply to all actions taken by the industrial commission (and to all calendar weeks of unemployment completed) after the close of the calendar week in which this act is officially published.

SECTION 29. This act shall take effect upon passage and publication.

Approved August 2, 1955.
