

CHAPTER 128, Laws of 1979

AN ACT to amend 756.04 (2) (a) and (d), 756.25 (1), 799.21 (4), 805.13 (4) and 972.10 (5); and to create 345.43 (5) of the statutes, relating to juries and jurors and providing a penalty.

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

SECTION 1. 345.43 (5) of the statutes is created to read:

345.43 (5) In a jury trial of a traffic regulation case, the court is not required to provide the jury with one complete set of written instructions under s. 805.13 (4).

SECTION 2. 756.04 (2) (a) and (d) of the statutes are amended to read:

756.04 (2) (a) The commissioners shall annually before the first Monday in April provide for each court covered by sub. (1), unless the judge or judges thereof otherwise order, one countywide list of ~~not less than 600~~ at least 200 names of persons to be drawn from the county to serve as petit jurors. The commissioners shall revise the list by striking from it the names of persons found by them to be ineligible for jury service, as provided in s. 756.01, and add to the list the names of additional persons as provided in s. 756.05. The list shall be certified by the commissioners as having been prepared in strict conformity with statutory requirements. The list shall also include a verified statement describing the manner in which the list was compiled or modified, including an enumeration of all public or private sources from which the names of the prospective jurors on the list were derived.

(d) The commissioners shall furnish, upon periodic request of the sheriff, a current list of the names of persons available for jury duty in mental inquiries and reexaminations, inquests of the dead and for such other purposes as the sheriff is required by law to summon or select a jury, ~~which list shall contain not less than 100 names of persons drawn under par. (a).~~

SECTION 3. 756.25 (1) of the statutes is amended to read:

756.25 (1) Every grand and petit juror summoned shall receive an amount, not less than \$16, as fixed by the county board, for each day's actual attendance upon any circuit court, and an amount, not less than 10 cents per mile, determined by the county board for each mile actually traveled each day in going and returning by the most usual route. A juror shall not be paid for a day when the court is not in session unless payment is specially ordered by the court. An employer shall grant an employe a leave of absence without loss of time in service for the period of jury service. For the purpose of determining seniority or pay advancement, the status of the employe shall be considered uninterrupted by the service. No employer may use absence due to jury service as a basis for the discharge of an employe or for any disciplinary action against the employe. An employer who discharges or disciplines an employe in violation of this subsection may be fined not more than \$200 and may be required to make full restitution to the aggrieved employe, including reinstatement and back pay.

SECTION 4. 799.21 (4) of the statutes, as affected by chapter 32, laws of 1979, is amended to read:

799.21 (4) JURY PROCEDURE. If there is a demand for a trial by jury, the parties shall proceed as if the action had originally been begun as a proceeding under chs. 801 to 807; ~~the plaintiff shall, if,~~ except that the court is not required to provide the jury with one

complete set of written instructions under s. 805.13 (4). If no complaint has previously been served and filed, the plaintiff shall accordingly file and serve a written complaint within 20 days of the jury demand, and the court shall place the case on the trial calendar.

SECTION 5. 805.13 (4) of the statutes is amended to read:

805.13 (4) INSTRUCTION. The court shall instruct the jury before or after closing arguments of counsel. Failure to object to a material variance or omission between the instructions given and the instructions proposed ~~shall~~ does not constitute a waiver of error. The court shall provide the jury with one complete set of written instructions providing the substantive law to be applied to the case to be decided.

SECTION 6. 972.10 (5) of the statutes is amended to read:

972.10 (5) When the evidence is concluded and the testimony closed, if either party desires special instructions to be given to the jury, ~~such~~ the instructions shall be reduced to writing, signed by the party or his or her attorney and filed with the clerk, unless the court otherwise directs. Counsel for the parties, or the defendant if he or she is without counsel, shall be allowed reasonable opportunity to examine the instructions requested and to present and argue to the court objections to the adoption or rejection of any instructions requested by counsel. The court shall advise the parties of the instructions to be given. Counsel, or the defendant if he or she is not represented by counsel, shall specify and state the particular ground on which the instruction is objected to, and it shall not be sufficient to object generally that the instruction does not state the law, or is against the law, but the objection ~~must~~ shall specify with particularity ~~wherein~~ how the instruction is insufficient, or does not state the law, or to what particular language there is an objection. All objections ~~must~~ shall be on the record. The court shall provide the jury with one complete set of written instructions providing the substantive law to be applied to the case to be decided.
