



State of Wisconsin
2009 - 2010 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 660**

April 12, 2010 – Offered by Representatives JORGENSEN and SINICKI.

1 **AN ACT** *to amend* 101.02 (20) (a) and 101.02 (21) (a); and *to create* 101.19 (1)
2 (n), 101.25 and 101.255 of the statutes; **relating to:** certification of
3 ironworkers, maximum and minimum numbers of certain individuals
4 performing ironwork at construction sites, granting rule-making authority,
5 and providing penalties.

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

6 **SECTION 1.** 101.02 (20) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
7 is amended to read:

8 101.02 **(20)** (a) For purposes of this subsection, “license” means a license,
9 permit, or certificate of certification or registration issued by the department under
10 ss. 101.09 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.147, 101.15 (2) (e),
11 101.16 (3g), 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.25 (3), 101.63 (2) or (2m),
12 101.653, 101.73 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951,

1 101.952, 101.985 (1) to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165,
2 145.17, 145.175, 145.18, or 167.10 (6m).

3 **SECTION 2.** 101.02 (21) (a) of the statutes, as affected by 2009 Wisconsin Act 28,
4 is amended to read:

5 101.02 **(21)** (a) In this subsection, “license” means a license, permit, or
6 certificate of certification or registration issued by the department under s. 101.09
7 (3) (c), 101.122 (2) (c), 101.136, 101.143 (2) (g), 101.147, 101.15 (2) (e), 101.16 (3g),
8 101.17, 101.177 (4) (a), 101.178 (2) or (3) (a), 101.25 (3), 101.63 (2), 101.653, 101.73
9 (5) or (6), 101.82 (1m), (1v), and (2), 101.935, 101.95, 101.951, 101.952, 101.985 (1)
10 to (3), 145.02 (4), 145.035, 145.045, 145.15, 145.16, 145.165, 145.17, 145.175, 145.18,
11 or 167.10 (6m).

12 **SECTION 3.** 101.19 (1) (n) of the statutes is created to read:

13 101.19 **(1)** (n) Certifying master ironworkers and journeymen ironworkers
14 under s. 101.25 (3).

15 **SECTION 4.** 101.25 of the statutes is created to read:

16 **101.25 Master and journeyman ironworkers. (1) DEFINITION.** In this
17 section, “ironworker” means an individual who does any of the following:

18 (a) Places, or unites girders, columns, and other structural steel members.

19 (b) Positions and secures post tensioning cables during on–site construction of
20 buildings or bridges.

21 (c) Installs prefabricated, ornamental metalwork.

22 (e) Rigs or places a turbine for a wind energy system as defined in s. 66.0403
23 (1) (m).

24 **(2) CERTIFICATION.** (a) *Certificate required.* Except as provided in sub. (5), no
25 individual may perform work as an ironworker in this state without a master

1 ironworker or journeyman ironworker certificate obtained from the department.
2 Except as provided in sub. (5), an individual with a master ironworker or journeyman
3 ironworker certificate shall perform work as an ironworker consistent with the rules
4 promulgated under sub. (3) (d).

5 (b) *Employer liability.* No employer may permit an employee to perform work
6 in violation of par. (a).

7 (c) *Contractor and subcontractor liability.* No person who is under a contract
8 to construct an improvement to land may permit an agent of the person, or an
9 independent contractor under contract with the person, to perform work on the
10 improvement in violation of par. (a).

11 **(3) ADMINISTRATION.** (a) *Master ironworkers.* Except as provided in sub. (4),
12 the department shall administer a program for the certification of master
13 ironworkers. The department may certify an individual as a master ironworker only
14 if all of the following apply:

15 1. The individual satisfactorily completes a written examination regarding
16 ironworking, unless the individual applies for recertification and provides sufficient
17 evidence that the individual has safely completed at least 5,000 hours of work as a
18 master ironworker or journeyman ironworker during the 5-year period before the
19 date of the application for recertification and has successfully completed at least 30
20 hours of training approved by the department during the 5-year period before the
21 date of the application for recertification.

22 2. The individual holds a valid journeyman ironworker certificate for at least
23 one year before the date of the individual's application for certification as a master
24 ironworker, unless the individual has successfully completed an ironworker

1 apprenticeship program that is approved by the department of commerce and the
2 department of workforce development.

3 (b) *Journeyman ironworkers.* Except as provided in sub. (4), the department
4 shall administer a program for the certification of journeyman ironworkers. The
5 department may certify an individual as a journeyman ironworker only if all of the
6 following apply:

7 1. The individual satisfactorily completes a written examination regarding
8 ironworking, unless the individual applies for recertification and provides sufficient
9 evidence that the individual has safely completed at least 5,000 hours of work as a
10 journeyman ironworker during the 5-year period before the date of the application
11 for recertification and has successfully completed at least 15 hours of training
12 approved by the department during the 5-year period before the date of the
13 application for recertification.

14 2. The individual successfully completes an ironworker apprenticeship
15 program that is approved by the department of commerce and the department of
16 workforce development, or safely completes at least 8,000 hours of work in the
17 ironworking trade, before the date of the individual's application for certification as
18 a journeyman ironworker.

19 (c) *Term.* A master ironworker certificate or journeyman ironworker certificate
20 issued by the department shall be valid for a term of 5 years.

21 (d) *Rules.* The department shall promulgate rules to administer the program
22 established under this subsection. The rules shall specify the tasks related to
23 ironworking that an individual certified as a master ironworker may perform and
24 that an individual certified as a journeyman ironworker may perform. To the extent
25 feasible, the rules shall be consistent with national standards applicable to

1 ironworkers. The department of commerce shall promulgate any rules with regard
2 to approved ironworker apprenticeship programs in consultation with the
3 department of workforce development.

4 (4) FEDERAL APPROVAL. The department shall submit to the federal secretary
5 of labor a plan for the certification of ironworkers under this section, if required to
6 do so under 29 USC 667 (b), and shall request the federal secretary of labor to approve
7 the plan. The plan submitted by the department shall be consistent with all of the
8 provisions of this section. If no approval is required under 29 USC 667 (b) or if an
9 approval is granted and in effect, the department shall implement the program
10 under this section. If approval is required under 29 USC 667 (b), the department may
11 not implement the program under this section unless an approval is granted and in
12 effect.

13 (5) EXCEPTIONS. (a) *Lack of federal approval.* Subsection (2) (a) does not apply
14 if approval of the department's plan for the certification of ironworkers is required
15 under 29 USC 667 (b) but is not granted and in effect.

16 (b) *Other exceptions.* Subsection (2) (a) does not apply to any of the following:

17 1. An individual who is receiving training as an ironworker, if the individual
18 is under the direct supervision of an ironworker who holds a valid master ironworker
19 certificate received from the department.

20 2. An individual who is enrolled in and performing tasks that are within the
21 scope of an ironworker apprenticeship program that is approved by the department
22 of commerce and by the department of workforce development.

23 3. An individual who is a member of a uniformed service, as defined in s. 6.22
24 (1) (c), or who is a member of the U.S. merchant marine, if the individual is

1 performing work for the uniformed service of which the individual is a member or for
2 the U.S. merchant marine, respectively.

3 3m. An individual who is performing ironwork on the premises of, or land
4 surrounding, a single-family or duplex residence.

5 4. An individual who is performing ironwork on premises that are owned or
6 leased by the individual.

7 5. An individual who is performing ironwork in an attempt to remedy an
8 emergency.

9 6. An individual who is positioning and securing reinforcing rods during the
10 construction of a road, sidewalk, or parking lot. Under this subdivision, the
11 construction of a bridge is not the construction of a road.

12 7. An individual who is performing ironwork within the scope of his or her
13 employment, if the individual is employed to do primarily any of the following:

14 a. Install, assemble, construct, or repair electrical work.

15 am. Install, assemble, construct, or repair the facilities of a public utility, as
16 defined in s. 196.01 (5).

17 b. Install, adjust, repair, or dismantle fire protection and fire control systems.

18 c. Install, repair, construct, or maintain transmission poles, transmission
19 towers, substations, switch racks, or similar electrical structures, electric cables, and
20 related auxiliary equipment for high-voltage transmission and distribution power
21 lines that are used to conduct energy between generating stations, substations, and
22 consumers.

23 d. Install, repair, alter, or recondition gas distribution pipeline.

24 e. Perform ironwork in connection with the installation, repair, or maintenance
25 of traffic control signals or traffic lights.

1 8. An individual employed exclusively to operate a crane, forklift, or hoist other
2 than an aerial platform lift used only for the purpose of elevating a person, if the
3 crane, forklift, or hoist is not manually operated.

4 9. An individual who fabricates and erects machine bases.

5 **(6) PENALTIES.** Any person who violates sub. (2) may be fined not more than
6 \$500. Each act in violation of sub. (2) constitutes a separate offense.

7 **SECTION 5.** 101.255 of the statutes is created to read:

8 **101.255 Ironworker ratios. (1) DEFINITIONS.** In this section:

9 (a) “Apprentice ironworker” means an individual who is enrolled in an
10 ironworker apprenticeship program that is approved by the department of commerce
11 and by the department of workforce development.

12 (b) “Master ironworker” means an individual who is certified as a master
13 ironworker by the department of commerce under s. 101.25.

14 **(2) RULES.** Except as provided in sub. (3), the department shall promulgate
15 rules specifying a minimum number of master ironworkers that are required to
16 provide work at a construction site, and a maximum number of apprentice
17 ironworkers and individuals training as ironworkers that are permitted to provide
18 work at a construction site, in order to provide for the safety of individuals at the
19 construction site. The department may vary the minimum and maximum numbers
20 established under the rules based upon the type of work being performed at the
21 construction site.

22 **(3) FEDERAL APPROVAL.** The department shall submit to the federal secretary
23 of labor a plan for enforcing the minimum and maximum numbers established under
24 sub. (2), if required to do so under 29 USC 667 (b), and shall request the federal
25 secretary of labor to approve the plan. The plan submitted by the department shall

1 be consistent with all of the provisions of sub. (2). If no approval is required under
2 29 USC 667 (b) or if an approval is granted and in effect, the department shall
3 promulgate and enforce the rules required under sub. (2). If approval is required
4 under 29 USC 667 (b), the department may not promulgate or enforce the rules
5 required under sub. (2) unless an approval is granted and in effect.

6 **SECTION 6. Nonstatutory provisions.**

7 (1) FEDERAL APPROVAL OF IRONWORKER PROGRAM. No later than the first day of
8 the 3rd month beginning after the effective date of this subsection, the department
9 of commerce shall submit to the federal secretary of labor the plans required under
10 sections 101.25 (4) and 101.255 (3) of the statutes, as created by this act, if required
11 to do so under 29 USC 667 (b).

12 (2) SUBMISSION OF PROPOSED RULES. No later than the first day of the 9th month
13 beginning after the effective date of this subsection, the department of commerce
14 shall submit in proposed form the rules required under sections 101.25 (3) and
15 101.255 (2) of the statutes, as created by this act; and the fees permitted under
16 section 101.19 (1) (n) of the statutes, as created by this act, to the legislative council
17 staff under section 227.15 (1) of the statutes.

18 (3) GRANDFATHER PROVISION; CERTIFICATION OF CERTAIN MASTER IRONWORKERS.
19 Except as provided in section 101.02 (20) (b) and (21) (b) of the statutes and
20 notwithstanding section 101.25 (3) (a) of the statutes, as created by this act, if
21 approval of the department of commerce's plan to certify ironworkers under section
22 101.25 (4) of the statutes, as created by this act, is not required under 29 USC 667
23 (b) or if such an approval is granted and in effect, the department shall certify as a
24 master ironworker any individual who applies for a master ironworker certification
25 within one year after the effective date of this subsection and who provides the

1 department with sufficient evidence that the individual safely completed at least
2 15,000 hours of work in the ironworking trade during the 15-year period before the
3 date of the application for certification.

4 (4) GRANDFATHER PROVISION; CERTIFICATION OF CERTAIN JOURNEYMAN
5 IRONWORKERS. Except as provided in section 101.02 (20) (b) and (21) (b) of the statutes
6 and notwithstanding section 101.25 (3) (b) of the statutes, as created by this act, if
7 approval of the department of commerce's plan to certify ironworkers under section
8 101.25 (4) of the statutes, as created by this act, is not required under 29 USC 667
9 (b) or if such an approval is granted and in effect, the department shall certify as a
10 journeyman ironworker any individual who applies for a journeyman ironworker
11 certification within one year after the effective date of this subsection and who
12 provides the department with sufficient evidence of any of the following:

13 (a) That the individual, before the date of the application for certification,
14 successfully completed an apprenticeship program for ironworking that is approved
15 by the department of workforce development.

16 (b) That the individual safely completed at least 8,000 hours of work in the
17 ironworking trade during the 8-year period before the date of the application for
18 certification.

19 **SECTION 7. Effective dates.** This act takes effect on the first day of the 18th
20 month beginning after publication, except as follows:

21 (1) FEDERAL APPROVAL AND PROPOSED RULES. SECTION 6 (1) and (2) of this act takes
22 effect on the day after publication.

23 (END)