



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-4392/1  
MED:cdc

## 2021 ASSEMBLY BILL 542

September 10, 2021 - Introduced by Representatives BROOKS, GUNDRUM, KNODL, ALLEN, ARMSTRONG, CALLAHAN, EDMING, HORLACHER, MAGNAFICI, MOSES, PLUMER, ROZAR, SCHRAA, SORTWELL and WICHGERS, cosponsored by Senators STROEBEL, FELZKOWSKI and NASS. Referred to Committee on State Affairs.

1     **AN ACT to amend** 108.04 (7) (h), 108.14 (8n) (e) and 108.141 (7) (a); and **to create**  
2             108.04 (5m) and 108.04 (7) (f) of the statutes; **relating to:** eligibility for  
3             unemployment insurance benefits in the case of an unwillingness to receive a  
4             vaccine.

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### *Analysis by the Legislative Reference Bureau*

Under current law, unless an exemption applies, if an individual quits his or her job, the individual is generally ineligible to receive unemployment insurance (UI) benefits until the individual earns wages or certain other amounts after the week in which the individual quits equal to at least six times the individual's weekly UI benefit rate. This bill creates an exemption for an individual who terminates his or her work due to the employee's unwillingness, as a condition of continued employment, to receive a vaccine against the SARS-CoV-2 coronavirus or furnish proof of having done so.

Also under current law, an individual may be disqualified from receiving UI benefits if he or she is terminated because of misconduct or substantial fault. The bill specifically provides that an employee's unwillingness, as a condition of continued employment, to receive a vaccine against the SARS-CoV-2 coronavirus or furnish proof of having done so, does not constitute misconduct or substantial fault.

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

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

1           **SECTION 1.** 108.04 (5m) of the statutes is created to read:

2           108.04 **(5m)** DISCHARGE CASES OF UNWILLINGNESS TO RECEIVE VACCINE. (a)  
3           Notwithstanding sub. (5), “misconduct,” for purposes of sub. (5), does not include the  
4           employee’s unwillingness, as a condition of continued employment, to receive a  
5           vaccine against the SARS-CoV-2 coronavirus, which causes COVID-19, or furnish  
6           proof of having done so.

7           (b) Notwithstanding sub. (5g), “substantial fault,” for purposes of sub. (5g), does  
8           not include the employee’s unwillingness, as a condition of continued employment,  
9           to receive a vaccine against the SARS-CoV-2 coronavirus, which causes COVID-19,  
10          or furnish proof of having done so.

11          **SECTION 2.** 108.04 (7) (f) of the statutes is created to read:

12          108.04 **(7)** (f) Paragraph (a) does not apply if the department determines that  
13          the employee terminated his or her work due to the employee’s unwillingness, as a  
14          condition of continued employment, to receive a vaccine against the SARS-CoV-2  
15          coronavirus, which causes COVID-19, or furnish proof of having done so.

16          **SECTION 3.** 108.04 (7) (h) of the statutes is amended to read:

17          108.04 **(7)** (h) The department shall charge to the fund’s balancing account  
18          benefits paid to an employee that are otherwise chargeable to the account of an  
19          employer that is subject to the contribution requirements of ss. 108.17 and 108.18  
20          if the employee voluntarily terminates employment with that employer and par. (a),  
21          (c), (cg), (e), ~~(f)~~, (L), (q), (s), or (t) applies.

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1           **SECTION 4.** 108.14 (8n) (e) of the statutes is amended to read:

2           108.14 **(8n)** (e) The department shall charge this state's share of any benefits  
3           paid under this subsection to the account of each employer by which the employee  
4           claiming benefits was employed in the applicable base period, in proportion to the  
5           total amount of wages he or she earned from each employer in the base period, except  
6           that if s. 108.04 (1) (f), (5), (7) (a), (c), (cg), (e), (f), (L), (q), (s), or (t), (7m) or (8) (a) or  
7           (b), 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) would have applied to employment  
8           by such an employer who is subject to the contribution requirements of ss. 108.17 and  
9           108.18, the department shall charge the share of benefits based on employment with  
10          that employer to the fund's balancing account, or, if s. 108.04 (1) (f) or (5) or 108.07  
11          (3) would have applied to an employer that is not subject to the contribution  
12          requirements of ss. 108.17 and 108.18, the department shall charge the share of  
13          benefits based on that employment in accordance with s. 108.07 (5) (am) 1. and 2.  
14          The department shall also charge the fund's balancing account with any other state's  
15          share of such benefits pending reimbursement by that state.

16          **SECTION 5.** 108.141 (7) (a) of the statutes is amended to read:

17          108.141 **(7)** (a) The department shall charge the state's share of each week of  
18          extended benefits to each employer's account in proportion to the employer's share  
19          of the total wages of the employee receiving the benefits in the employee's base  
20          period, except that if the employer is subject to the contribution requirements of ss.  
21          108.17 and 108.18 the department shall charge the share of extended benefits to  
22          which s. 108.04 (1) (f), (5), (7) (a), (c), (cg), (e), (f), (L), (q), (s), or (t), (7m) or (8) (a) or  
23          (b), 108.07 (3), (3r), or (5) (am) 2., or 108.133 (3) (f) applies to the fund's balancing  
24          account.

25          **SECTION 6. Initial applicability.**

