



1997 ASSEMBLY BILL 214

March 25, 1997 - Introduced by Representatives GRONEMUS, MUSSER, ALBERS, JENSEN and OTTE. Referred to Committee on Labor and Employment.

1 **AN ACT to repeal** 102.28 (3) (a) 3., 102.28 (3) (a) 4. and 102.28 (3) (b) 4.; and **to**
2 **amend** 102.28 (3) (a) (intro.), 102.28 (3) (c) and 102.28 (3) (d) of the statutes;
3 **relating to:** an exemption from the worker's compensation law for an employer
4 of an employe who is member of a religious sect that opposes accepting the
5 benefits of insurance and that provides assistance for its members who become
6 dependent on the religious sect as a result of work-related injuries.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, every employer must pay worker's compensation to an employe who sustains an injury while performing services growing out of and incidental to his or her employment. Current law, however, permits the department of industry, labor and job development (DILJD) to exempt an employer from the duty to pay worker's compensation to certain employes who belong to a religious sect whose tenets or teachings oppose accepting the benefits of any public or private insurance that pays benefits in the event of death, disability, old age or retirement or that makes payments towards the cost of medical care, for example, the Amish. Under the bill, an employer applying for this exemption must submit to DILJD all of the following:

1. A written waiver by the employe of all worker's compensation benefits other than the financial and medical assistance provided by his or her religious sect.
2. An affidavit by the employe stating that the employe is a member of a recognized religious sect and that, as a result of the established tenets or teachings

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of the religious sect, the employe is conscientiously opposed to accepting the benefits of insurance as described above.

3. An affidavit by an authorized representative of the religious sect that the religious sect has a long-standing history of providing its members who become dependent on the religious sect as a result of work-related injuries with a standard of living and medical treatment that are reasonable when compared to the general standard of living and medical treatment for members of the religious sect.

4. An agreement signed by an authorized representative of the religious sect to provide financial and medical assistance to the employe if the employe sustains an injury which, but for the employe's waiver, would be compensable under the worker's compensation law; and proof of the financial ability of the religious sect to provide that assistance, which the religious sect may establish by maintaining, in an amount determined by DILJD, a surety bond, an irrevocable letter of credit or some other financial commitment approved by DILJD.

This bill eliminates the requirement that an employer applying for this exemption with respect to an employe submit to DILJD an affidavit by an authorized representative of the religious sect stating that the religious sect has a long-standing history of providing assistance for its members who become dependent on the religious sect as a result of work-related injuries; the requirement that the employer submit to DILJD an agreement signed by an authorized representative of the religious sect to provide assistance to the employe if the employe sustains a work-related injury; and the requirement that the religious sect establish proof of its financial ability to provide that assistance.

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:

1 **SECTION 1.** 102.28 (3) (a) (intro.) of the statutes is amended to read:
2 102.28 (3) (a) (intro.) An employer may file with the department an application
3 for exemption from the duty to pay compensation under this chapter with respect to
4 any employe who signs the waiver described in subd. 1. and the affidavit described
5 in subd. 2. ~~if an authorized representative of the religious sect to which the employe~~
6 ~~belongs signs the affidavit specified in subd. 3. and signs the agreement and provides~~
7 ~~the proof of financial ability described in subd. 4.~~ An application for exemption under
8 this paragraph shall include all of the following:

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1 **SECTION 2.** 102.28 (3) (a) 3. of the statutes is repealed.

2 **SECTION 3.** 102.28 (3) (a) 4. of the statutes is repealed.

3 **SECTION 4.** 102.28 (3) (b) 4. of the statutes is repealed.

4 **SECTION 5.** 102.28 (3) (c) of the statutes is amended to read:

5 102.28 (3) (c) An employe who has signed a waiver under par. (a) 1. and an
6 affidavit under par. (a) 2., who sustains an injury that, but for that waiver, the
7 employer would be liable for under s. 102.03, who at the time of the injury was a
8 member of a religious sect ~~whose authorized representative has filed an affidavit~~
9 ~~under par. (a) 3. and an agreement and proof of financial responsibility under par.~~
10 ~~(a) 4. that meets the conditions specified in par. (b) 2. and 3. and who as a result of~~
11 the injury becomes dependent on the religious sect for financial and medical
12 assistance, or the employe's dependent, may request a hearing under s. 102.17 (1) to
13 determine if the religious sect has provided the employe and his or her dependents
14 with a standard of living and medical treatment that are reasonable when compared
15 to the general standard of living and medical treatment for members of the religious
16 sect. If, after hearing, the department determines that the religious sect has not
17 provided that standard of living or medical treatment, or both, the department may
18 order the religious sect to provide alternative benefits to that employe or his or her
19 dependent, or both, in an amount that is reasonable under the circumstances, but
20 not in excess of the benefits that the employe or dependent could have received under
21 this chapter but for the waiver under par. (a) 1. ~~If the religious sect does not provide~~
22 ~~the alternative benefits as ordered by the department, the department may use the~~
23 ~~financial commitment under par. (a) 4., and to pay the alternative benefits ordered,~~
24 including any penalties that may be appropriate.

25 **SECTION 6.** 102.28 (3) (d) of the statutes is amended to read:

