

# State of Wisconsin



2009 Assembly Bill 266

Date of enactment: **December 1, 2009**  
Date of publication\*: **December 15, 2009**

## 2009 WISCONSIN ACT 87

AN ACT *to renumber and amend* 109.07 (1m); and *to amend* 106.11, 109.07 (1) (a), 109.07 (1) (h), 109.07 (3) (a) (intro.), 109.07 (3) (c), 109.07 (4) (a), 109.07 (4m) (a), 109.07 (5) (a) (intro.), 109.07 (5) (a) 1., 109.07 (5) (a) 2., 109.07 (6) (intro.), 560.15 (1) (b) 1., 560.71 (1) (e) 4. e. and 560.797 (2) (a) 4. e. of the statutes; **relating to:** the provision of support services information to employees who are affected by a business closing or mass layoff.

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

**SECTION 1d.** 106.11 of the statutes is amended to read:

**106.11 Workforce investment programs.** The department shall cooperate with the federal government in carrying out the purposes of the federal Workforce Investment Act of 1998, [29 USC 2801 to 2945](#). In administering the programs authorized by that act the department shall, in cooperation with other state agencies and with local workforce development boards established under [29 USC 2832](#), establish a statewide workforce investment system to meet the employment, training, and educational needs of persons in this state. If a local workforce development board anticipates that there may be a business closing or mass layoff under s. 109.07 in the area served by that board, the board may prepare a list of resources available in that area that provide career planning, job search, job skills training, and other support services for affected employees, as defined in s. 109.07 (1) (a), including contact information for those resources, for distribution to those employees under s. 109.07 (1m) (a).

**SECTION 1g.** 109.07 (1) (a) of the statutes is amended to read:

109.07 (1) (a) "Affected employee" means an employee who loses, or who may reasonably be expected to lose, his or her employment with an employer ~~who~~ that is required to give notice under sub. (1m) (a) because of the business closing or mass layoff.

**SECTION 2.** 109.07 (1) (h) of the statutes is amended to read:

109.07 (1) (h) "New or low-hour employee" means an employee who has been employed by an employer for fewer than 6 of the 12 months preceding the date on which a notice is required under sub. (1m) (a) or who averages fewer than 20 hours of work per week.

**SECTION 3.** 109.07 (1m) of the statutes is renumbered 109.07 (1m) (a) and amended to read:

109.07 (1m) (a) Subject to sub. (5) or (6), an employer ~~who~~ that has decided upon a business closing or mass layoff in this state shall promptly notify the subunit of the department that administers s. 106.15, any affected employee, any collective bargaining representative of any affected employee, and the highest official of any municipality in which the affected employment site is located, in writing of such action no later than 60 days prior to the date ~~that~~ on which the business closing or mass layoff takes place. The notice to an affected employee shall also include contact information for the local workforce development board under [29 USC 2832](#)

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

servicing the area in which the employment site is located and, if available, the list of resources prepared under s. 106.11. The employer shall provide in writing all information concerning its payroll, affected employees, and the wages and other remuneration owed to such those employees as the department may require. The department may in addition require the employer to submit a plan setting forth the manner in which final payment in full shall be made to affected employees.

(b) The department shall promptly provide a copy of the notice required under ~~this subsection~~ par. (a) to the department of commerce and to the office of the commissioner of insurance and shall cooperate with the department of commerce in the performance of its responsibilities under s. 560.15 and with the office of the commissioner of insurance in the performance of its responsibilities under s. 601.41 (7).

(c) This subsection does not apply to a business closing or mass layoff that is caused by a strike or lockout.

**SECTION 5.** 109.07 (3) (a) (intro.) of the statutes is amended to read:

109.07 (3) (a) (intro.) If an employer fails to give timely notice to an affected employee as required under sub. (1m) (a), the affected employee may recover, as provided under sub. (4), all of the following:

**SECTION 6.** 109.07 (3) (c) of the statutes is amended to read:

109.07 (3) (c) The recovery period under par. (a) begins on the day that on which the business closing or mass layoff occurs. The recovery period equals the number of days in the period beginning on the day on which an employer is required to give notice under sub. (1m) (a) and ending on whichever of the following occurs first:

1. The day that on which the employer actually gave the notice to the employee.

2. The day that on which the business closing or mass layoff occurred.

**SECTION 7.** 109.07 (4) (a) of the statutes is amended to read:

109.07 (4) (a) An employee whose employer fails to notify timely the employee under sub. (1m) (a) may file a claim with the department. If the employee files a claim with the department no later than 300 days after the day on which the business closing or mass layoff occurred, the department shall, in the manner provided in s. 109.09, investigate the claim, determine the number of days that the employer was late in providing notice and, on behalf of the employee, attempt to recover from the employer the payment under sub. (3).

**SECTION 8.** 109.07 (4m) (a) of the statutes is amended to read:

109.07 (4m) (a) If an employer fails to give timely notice to the highest official of a municipality as required under sub. (1m) (a), the department shall assess a busi-

ness closing surcharge against the employer of not more than \$500 for each day in the period beginning on the day that on which the employer was required to give notice to the highest official and ending on the earlier of the day that on which the employer actually gave notice to the highest official or the day that on which the business closing or mass layoff occurred.

**SECTION 9.** 109.07 (5) (a) (intro.) of the statutes is amended to read:

109.07 (5) (a) (intro.) An employer is not liable under this section for a failure to give notice to any person under sub. (1m) (a), if the department determines all of the following:

**SECTION 10.** 109.07 (5) (a) 1. of the statutes is amended to read:

109.07 (5) (a) 1. When the notice under sub. (1m) (a) would have been timely given, that the employer was actively seeking capital or business to enable the employer to avoid or postpone indefinitely the business closing or mass layoff.

**SECTION 11.** 109.07 (5) (a) 2. of the statutes is amended to read:

109.07 (5) (a) 2. That the employer reasonably and in good faith believed that giving the notices to all parties required under sub. (1m) (a) would have prevented the employer from obtaining the capital or business.

**SECTION 12.** 109.07 (6) (intro.) of the statutes is amended to read:

109.07 (6) (intro.) An employer is not liable under this section for a failure to give notice to any person under sub. (1m) (a), if the department determines that the business closing or mass layoff is the result of any of the following:

**SECTION 13.** 560.15 (1) (b) 1. of the statutes is amended to read:

560.15 (1) (b) 1. The department of workforce development under s. 109.07 (1m) (a).

**SECTION 14.** 560.71 (1) (e) 4. e. of the statutes is amended to read:

560.71 (1) (e) 4. e. An employer in the vicinity of the area has given public notice under s. 109.07 (1m) (a) of either a business closing or a mass layoff of at least 25 employees, or 25% of the employees, of a business, whichever is greater, that will result in a number of workers in the area being laid off permanently.

**SECTION 15.** 560.797 (2) (a) 4. e. of the statutes is amended to read:

560.797 (2) (a) 4. e. An employer in the vicinity of the area has given public notice under s. 109.07 (1m) (a) of either a business closing or a mass layoff of at least 25 employees, or 25% of the employees, of a business, whichever is greater, that will result in a number of workers in the area being laid off permanently.

**SECTION 16. Initial applicability.**

(1) BUSINESS CLOSINGS OR MASS LAYOFFS; PROVISION OF SUPPORT SERVICES INFORMATION. This act first applies to business closing and mass layoff notices provided on the effective date of this subsection.

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