

87.21 Employer failing to insure.

Any employer, except an employer with respect to an exempt employee under [section 85.1](#), who has failed to insure the employer's liability in one of the ways provided in [this chapter](#), unless relieved from carrying such insurance as provided in [section 87.11](#), is liable to an employee for a personal injury in the course of and arising out of the employment, and the employee may enforce the liability by an action at law for damages, or may collect compensation as provided in [chapter 10A, subchapter III](#), and [chapters 85, 85A, and 85B](#). In actions by the employee for damages under [this section](#), the following rules apply:

1. It shall be presumed:

a. That the injury to the employee was the direct result and growing out of the negligence of the employer.

b. That such negligence was the proximate cause of the injury.

2. The burden of proof shall rest upon the employer to rebut the presumption of negligence, and the employer shall not be permitted to plead or rely upon any defense of the common law, including the defenses of contributory negligence, assumption of risk and the fellow servant rule.

3. In an action at law for damages the parties have a right to trial by jury.

[C24, 27, 31, §1479; C35, §1479, 1481-e1; C39, §1479, 1481.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §87.21, 87.24; 82 Acts, ch 1161, §26, ch 1221, §3]

83 Acts, ch 36, §4, 8; 2023 Acts, ch 19, §1759

Unnumbered paragraph 1 amended