



1997 ASSEMBLY BILL 479

August 19, 1997 - Introduced by Representatives KRUSICK, BLACK, BOCK, BOYLE, CARPENTER, COGGS, GARD, GUNDERSON, HASENOHRL, KELSO, KREIBICH, LA FAVE, M. LEHMAN, LINTON, MURAT, NOTESTEIN, PLALE, R. POTTER, RILEY, ROBSON, RYBA, STASKUNAS, TURNER, URBAN, VANDER LOOP, WASSERMAN and UNDERHEIM, cosponsored by Senators BURKE, MOORE and ROSENZWEIG, by request of Board on Aging and Long Term Care, Coalition of Wisconsin Aging Groups, Service Employees Local 150, Wisconsin Coalition for Advocacy, Wisconsin Council of Senior Citizens and American Association of Retired Persons. Referred to Committee on Government Operations.

1 **AN ACT to amend** 50.04 (5) (a) 1., 2., 3. (intro.), 5. and 6.; and **to repeal and**
2 **recreate** 50.04 (5) (f) of the statutes; **relating to:** forfeitures that are imposed
3 on nursing homes and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a nursing home that violates a statute or rule is subject to a forfeiture. A maximum amount applies to each class of violation. This bill specifies a minimum amount for each class of violation.

Under current law, a 2nd violation of the same statute or rule within 2 years subjects a nursing home to a separate forfeiture. This bill increases that time period to 3 years.

Under current law, nursing homes must pay forfeitures within 10 days unless they contest them. Under this bill, nursing homes must pay forfeitures within 10 days whether or not they contest them. If a nursing home contests a forfeiture, the forfeiture is placed in an interest-bearing account, and after final resolution of the contest the forfeiture and the interest on it are paid to the nursing home if it prevails and are sent to the state treasurer for deposit in the school fund if the nursing home does not prevail.

For further information see the *state* 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:

ASSEMBLY BILL 479**SECTION 1**

1 **SECTION 1.** 50.04 (5) (a) 1., 2., 3. (intro.), 5. and 6. of the statutes are amended
2 to read:

3 50.04 **(5)** (a) 1. A class "A" violation may be subject to a forfeiture of not less than
4 \$1,000 nor more than \$5,000 for each violation.

5 2. A class "B" violation may be subject to a forfeiture of not less than \$100 nor
6 more than \$1,000 for each violation.

7 3. (intro.) A class "C" violation may be subject to a forfeiture of not less than \$10
8 nor more than \$100. No forfeiture may be assessed for a class "C" violation unless
9 at least one of the following applies:

10 5. A nursing home which violates a statute or rule and which has received a
11 notice of violation of the same statute or rule on one or more separate prior occasions
12 within the prior ~~2-year~~ 3-year period may be subject to a forfeiture 3 times the
13 amount authorized for the class of violation involved. ~~This provision only~~
14 subdivision applies only to a class "A" or class "B" violation. A notice of violation
15 found to be unjustified after hearing may not be considered in determining whether
16 to apply this subdivision.

17 6. If a licensee fails to correct a violation within the time specified in the notice
18 of violation or approved plan of correction, or within the extended correction time
19 granted under sub. (4) (c) 4., or if a violation continues after a report of correction,
20 ~~a separate forfeiture there~~ may be assessed upon the licensee ~~in an amount not to~~
21 ~~exceed a separate forfeiture of not less than \$1,000 nor more than \$5,000 for class~~
22 "A" violations, and of not less than \$100 nor more than \$1,000 for class "B" violations,
23 ~~for each day of continuing violation, \$5,000 for class "A" violations and \$1,000 for~~
24 ~~class "B" violations.~~

25 **SECTION 2.** 50.04 (5) (f) of the statutes is repealed and recreated to read:

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1 50.04 (5) (f) *Forfeitures paid within 10 days.* All forfeitures shall be paid to the
2 department within 10 days after receipt of the notice of assessment. If the forfeiture
3 is not contested under par. (e), the department shall remit the forfeiture to the state
4 treasurer for deposit in the school fund. If the forfeiture is contested under par. (e),
5 the department shall place the forfeiture in an interest-bearing account and, after
6 final resolution, shall return the forfeiture and the interest earned on it to the
7 nursing home that contests the forfeiture if that nursing home prevails and shall
8 remit the forfeiture and the interest earned on it to the state treasurer for deposit
9 in the school fund if the nursing home that contests the forfeiture does not prevail.

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(END)