



## 1997 SENATE BILL 449

February 10, 1998 - Introduced by Senators CLAUSING, PANZER, DECKER, BURKE and RISSER, cosponsored by Representatives OTTE, HUBER, ALBERS, SPRINGER, HARSDF, NOTESTEIN, PORTER, HASENOHRL, HAHN, WASSERMAN, MUSSER, R. POTTER, KEDZIE and SERATTI. Referred to Committee on Agriculture and Environmental Resources.

1     **AN ACT to amend** 59.25 (3) (f) 2., 59.40 (2) (m), 778.13, 973.05 (1), 973.05 (2) and  
2            973.07; and **to create** 20.115 (1) (jd) and (jf), 98.26 (3), 98.26 (4), 98.27, 814.60  
3            (2) (g) and 814.63 (3) (g) of the statutes; **relating to:** costs related to  
4            investigations regarding weights and measures violations, protection for  
5            persons reporting weights and measures violations, providing for business and  
6            consumer education and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person is subject to a forfeiture of \$100 to \$1,000 if he or she obstructs or hinders a state or local inspector of weights and measures, including the manipulation of any test used to determine the value of milk, causing any weight or measure used in the buying or selling of a commodity to be incorrect or removing an official weights and measures inspector's tag from a commodity. If the violation is intentional, the person is subject to a fine.

This bill requires a court to impose an assessment equal to 15% of the fine or forfeiture whenever the court imposes a fine or forfeiture for an offense related to weights and measures. In addition the court may order the offender to pay the costs of the investigation and prosecution, including attorney fees, related to the offense. The costs of investigation that are collected are deposited in an appropriation to pay for additional investigations of weights and measures violations and the assessments that are collected are deposited in an appropriation to pay for the education of consumers and businesses regarding their rights and responsibilities in the marketplace.

The bill also prohibits any person who buys or sells a commodity to dismiss, demote, transfer, discriminate or otherwise retaliate against an employe because the employe reported any information to a weights and measures inspector that demonstrates a violation of a law or rule regulating weights and measures.

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.** 20.115 (1) (jd) and (jf) of the statutes are created to read:

2           20.115 (1) (jd) *Weights and measures investigations.* All moneys received by the  
3 department under s. 98.26 (3) for the costs of investigating a violation of ch. 98 or of  
4 any rules promulgated under ch. 98.

5           (jf) *Weights and measures assessments.* All moneys received from the weights  
6 and measures assessment on fines and forfeitures that are levied by a court under  
7 s. 98.26 (4) for the education of consumers and businesses regarding their rights and  
8 responsibilities in the marketplace.

9           **SECTION 2.** 59.25 (3) (f) 2. of the statutes, as affected by 1997 Wisconsin Act 27,  
10 section 2160p, is amended to read:

11           59.25 (3) (f) 2. For all court imposed fines and forfeitures required by law to be  
12 deposited in the state treasury, the amounts required by s. 165.87 for the penalty  
13 assessment surcharge, the amounts required by s. 165.755 for the crime laboratories  
14 and drug law enforcement assessment, the amounts required by s. 167.31 (5) for the  
15 weapons assessment, the amounts required by s. 973.045 for the crime victim and  
16 witness assistance surcharge, the amounts required by s. 938.34 (8d) for the  
17 delinquency victim and witness assistance surcharge, the amounts required by s.  
18 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by  
19 s. 961.41 (5) for the drug abuse program improvement surcharge, the amounts  
20 authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the domestic abuse  
21 assessment, the amounts required by s. 253.06 (4) (c) for the enforcement assessment

1 under the supplemental food program for women, infants and children, the amounts  
2 required by s. 346.655 (2) (a) and (b) for the driver improvement surcharge, the  
3 amounts required by s. 102.85 (4) for the uninsured employer assessment, the  
4 amounts required by s. 299.93 for the environmental assessment, the amounts  
5 required by s. 29.9965 for the wild animal protection assessment, the amounts  
6 required by s. 29.997 for the natural resources assessment surcharge, the amounts  
7 required by s. 29.9967 for the fishing shelter removal assessment, the amounts  
8 required by s. 350.115 for the snowmobile registration restitution payment, the  
9 amounts required by s. 98.26 (4) for the weights and measures assessment and the  
10 amounts required by s. 29.998 for natural resources restitution payments, transmit  
11 to the state treasurer a statement of all moneys required by law to be paid on the  
12 actions entered during the preceding month on or before the first day of the next  
13 succeeding month, certified by the county treasurer's personal signature affixed or  
14 attached thereto, and at the same time pay to the state treasurer the amount thereof.

15 **SECTION 3.** 59.40 (2) (m) of the statutes, as affected by 1997 Wisconsin Act 27,  
16 section 2163p, is amended to read:

17 59.40 (2) (m) Pay monthly to the treasurer for the use of the state the state's  
18 percentage of the fees required to be paid on each civil action, criminal action and  
19 special proceeding filed during the preceding month and pay monthly to the  
20 treasurer for the use of the state the percentage of court imposed fines and forfeitures  
21 required by law to be deposited in the state treasury, the amounts required by s.  
22 165.87 (2) (b) for the penalty assessment surcharge, the amounts required by s.  
23 165.755 for the crime laboratories and drug law enforcement assessment, the  
24 amounts required by s. 167.31 (5) for the weapons assessment, the amounts required  
25 by s. 973.045 for the crime victim and witness assistance surcharge, the amounts

1 required by s. 938.34 (8d) for the delinquency victim and witness assistance  
2 surcharge, the amounts required by s. 973.046 for the deoxyribonucleic acid analysis  
3 surcharge, the amounts required by s. 961.41 (5) for the drug abuse program  
4 improvement surcharge, the amounts authorized by s. 971.37 (1m) (c) 1. or required  
5 by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by  
6 s. 253.06 (4) (c) for the enforcement assessment under the supplemental food  
7 program for women, infants and children, the amounts required by s. 346.655 for the  
8 driver improvement surcharge, the amounts required by s. 102.85 (4) for the  
9 uninsured employer assessment, the amounts required by s. 299.93 for the  
10 environmental assessment, the amounts required under s. 29.9965 for the wild  
11 animal protection assessment, the amounts required under s. 29.997 (1) (d) for the  
12 natural resources assessment surcharge, the amounts required by s. 29.9967 for the  
13 fishing shelter removal assessment, the amounts required by s. 350.115 for the  
14 snowmobile registration restitution payment, the amounts required by s. 98.26 (4)  
15 for the weights and measures assessment and the amounts required under s. 29.998  
16 (1) (d) for the natural resources restitution payments. The payments shall be made  
17 by the 15th day of the month following receipt thereof.

18 **SECTION 4.** 98.26 (3) of the statutes is created to read:

19 98.26 (3) In addition to the penalties imposed under sub. (1) or the injunction  
20 granted under sub. (2), the court may order a person who commits a violation of this  
21 chapter or of the rules promulgated under this chapter to pay the reasonable and  
22 necessary costs of investigation and of prosecution, including attorney fees, related  
23 to that violation. All moneys that the department receives under this subsection  
24 shall be credited to the appropriation account under s. 20.115 (1) (jd).

25 **SECTION 5.** 98.26 (4) of the statutes is created to read:

1           98.26 (4) (a) Whenever a court imposes a fine or forfeiture for a violation of this  
2 section, the court shall also impose a weights and measures assessment in the  
3 amount of 15% of the fine or forfeiture imposed. If multiple offenses are involved,  
4 the court shall base the weights and measures assessment upon the total fine or  
5 forfeiture amounts for all offenses. When a fine or forfeiture is suspended in whole  
6 or in part, the court shall reduce the weights and measures assessment in proportion  
7 to the suspension.

8           (b) The clerk of court shall collect and transmit the weights and measures  
9 assessment amounts to the county treasurer under s. 59.40 (2) (m). The county  
10 treasurer shall then make payment to the state treasurer under s. 59.25 (3) (f) 2.

11           **SECTION 6.** 98.27 of the statutes is created to read:

12           **98.27 Protection of employes.** No person who is subject to the provisions of  
13 this chapter may dismiss, discipline, demote, transfer, reprimand, harass, reduce the  
14 pay of, discriminate against or otherwise retaliate against any employe, or threaten  
15 to take any of those actions, because the employe reported to the department or to  
16 a sealer or inspector any information gained by the employe which the employe  
17 reasonably believes demonstrates a violation of this chapter or rules promulgated  
18 under this chapter.

19           **SECTION 7.** 778.13 of the statutes, as affected by 1997 Wisconsin Act 27, is  
20 amended to read:

21           **778.13 Forfeitures collected, to whom paid.** All moneys collected in favor  
22 of the state for forfeiture, except the portion to be paid to any person who sues with  
23 the state, shall be paid by the officer who collects the forfeiture to the treasurer of the  
24 county within which the forfeiture was incurred within 20 days after its receipt. In  
25 case of any failure in the payment the county treasurer may collect the payment of

1 the officer by action, in the name of the office and upon the official bond of the officer,  
2 with interest at the rate of 12% per year from the time when it should have been paid.  
3 Penalty assessment payments shall be made as provided in s. 165.87. Jail  
4 assessment payments shall be made as provided in s. 302.46 (1). Crime laboratories  
5 and drug law enforcement assessment payments shall be paid as provided in s.  
6 165.755. Domestic abuse assessments shall be made as provided in s. 973.055.  
7 Enforcement assessments shall be made as provided in s. 253.06 (4) (c). Weights and  
8 measures assessments shall be made as provided in s. 98.26 (4).

9 **SECTION 8.** 814.60 (2) (g) of the statutes is created to read:

10 814.60 (2) (g) Weights and measures assessment imposed by s. 98.26 (4).

11 **SECTION 9.** 814.63 (3) (g) of the statutes is created to read:

12 814.63 (3) (g) Weights and measures assessment imposed by s. 98.26 (4).

13 **SECTION 10.** 973.05 (1) of the statutes, as affected by 1997 Wisconsin Act 27,  
14 is amended to read:

15 973.05 (1) When a defendant is sentenced to pay a fine, the court may grant  
16 permission for the payment of the fine, of the penalty assessment imposed by s.  
17 165.87, the jail assessment imposed by s. 302.46 (1), the crime victim and witness  
18 assistance surcharge under s. 973.045, the crime laboratories and drug law  
19 enforcement assessment imposed by s. 165.755, any applicable deoxyribonucleic acid  
20 analysis surcharge under s. 973.046, any applicable drug abuse program  
21 improvement surcharge imposed by s. 961.41 (5), any applicable domestic abuse  
22 assessment imposed by s. 971.37 (1m) (c) 1. or 973.055, any applicable driver  
23 improvement surcharge imposed by s. 346.655, any applicable enforcement  
24 assessment imposed by s. 253.06 (4) (c), any applicable weapons assessment imposed  
25 by s. 167.31, any applicable uninsured employer assessment imposed by s. 102.85 (4),

1 any applicable environmental assessment imposed by s. 299.93, any applicable wild  
2 animal protection assessment imposed by s. 29.9965, any applicable natural  
3 resources assessment imposed by s. 29.997, any applicable weights and measures  
4 assessment imposed by s. 98.26 (4) and any applicable natural resources restitution  
5 payment imposed by s. 29.998 to be made within a period not to exceed 120 days. If  
6 no such permission is embodied in the sentence, the fine, the penalty assessment, the  
7 jail assessment, the crime victim and witness assistance surcharge, the crime  
8 laboratories and drug law enforcement assessment, any applicable deoxyribonucleic  
9 acid analysis surcharge, any applicable drug abuse program improvement  
10 surcharge, any applicable domestic abuse assessment, any applicable driver  
11 improvement surcharge, any applicable enforcement assessment, any applicable  
12 weapons assessment, any applicable uninsured employer assessment, any  
13 applicable environmental assessment, any applicable wild animal protection  
14 assessment, any applicable natural resources assessment, any applicable weights  
15 and measures assessment imposed by s. 98.26 (4) and any applicable natural  
16 resources restitution payment shall be payable immediately.

17 **SECTION 11.** 973.05 (2) of the statutes, as affected by 1997 Wisconsin Act 27,  
18 is amended to read:

19 973.05 (2) When a defendant is sentenced to pay a fine and is also placed on  
20 probation, the court may make the payment of the fine, the penalty assessment, the  
21 jail assessment, the crime victim and witness assistance surcharge, the crime  
22 laboratories and drug law enforcement assessment, any applicable deoxyribonucleic  
23 acid analysis surcharge, any applicable drug abuse program improvement  
24 surcharge, any applicable domestic abuse assessment, any applicable uninsured  
25 employer assessment, any applicable driver improvement surcharge, any applicable

1 enforcement assessment under s. 253.06 (4) (c), any applicable weapons assessment,  
2 any applicable environmental assessment, any applicable wild animal protection  
3 assessment, any applicable natural resources assessment, any applicable weights  
4 and measures assessment imposed by s. 98.26 (4) and any applicable natural  
5 resources restitution payments a condition of probation. When the payments are  
6 made a condition of probation by the court, payments thereon shall be applied first  
7 to payment of the penalty assessment until paid in full, shall then be applied to the  
8 payment of the jail assessment until paid in full, shall then be applied to the payment  
9 of part A of the crime victim and witness assistance surcharge until paid in full, shall  
10 then be applied to part B of the crime victim and witness assistance surcharge until  
11 paid in full, shall then be applied to the crime laboratories and drug law enforcement  
12 assessment until paid in full, shall then be applied to the deoxyribonucleic acid  
13 analysis surcharge until paid in full, shall then be applied to the drug abuse  
14 improvement surcharge until paid in full, shall then be applied to payment of the  
15 driver improvement surcharge until paid in full, shall then be applied to payment  
16 of the domestic abuse assessment until paid in full, shall then be applied to payment  
17 of the natural resources assessment if applicable until paid in full, shall then be  
18 applied to payment of the natural resources restitution payment until paid in full,  
19 shall then be applied to the payment of the environmental assessment if applicable  
20 until paid in full, shall then be applied to the payment of the wild animal protection  
21 assessment if applicable until paid in full, shall then be applied to payment of the  
22 weapons assessment until paid in full, shall then be applied to payment of the  
23 uninsured employer assessment until paid in full, shall then be applied to payment  
24 of the enforcement assessment under s. 253.06 (4) (c), if applicable, shall then be



1 applied to payment of the weights and measures assessment under s. 98.26 (4), if  
2 applicable, until paid in full and shall then be applied to payment of the fine.

3 **SECTION 12.** 973.07 of the statutes, as affected by 1997 Wisconsin Act 27, is  
4 amended to read:

5 **973.07 Failure to pay fine or costs or to comply with certain**  
6 **community service work.** If the fine, costs, penalty assessment, jail assessment,  
7 crime victim and witness assistance surcharge, crime laboratories and drug law  
8 enforcement assessment, applicable deoxyribonucleic acid analysis surcharge,  
9 applicable drug abuse program improvement surcharge, applicable domestic abuse  
10 assessment, applicable driver improvement surcharge, applicable enforcement  
11 assessment under s. 253.06 (4) (c), applicable weapons assessment, applicable  
12 uninsured employer assessment, applicable environmental assessment, applicable  
13 wild animal protection assessment, applicable natural resources assessment,  
14 applicable weights and measures assessment and applicable natural resources  
15 restitution payments are not paid or community service work under s. 943.017 (3)  
16 is not completed as required by the sentence, the defendant may be committed to the  
17 county jail until the fine, costs, penalty assessment, jail assessment, crime victim  
18 and witness assistance surcharge, crime laboratories and drug law enforcement  
19 assessment, applicable deoxyribonucleic acid analysis surcharge, applicable drug  
20 abuse program improvement surcharge, applicable domestic abuse assessment,  
21 applicable driver improvement surcharge, applicable enforcement assessment  
22 under s. 253.06 (4) (c), applicable weapons assessment, applicable uninsured  
23 employer assessment, applicable environmental assessment, applicable wild animal  
24 protection assessment, applicable natural resources assessment, applicable weights  
25 and measures assessment or applicable natural resources restitution payments are

1 paid or discharged, or the community service work under s. 943.017 (3) is completed,  
2 for a period fixed by the court not to exceed 6 months.

3 **SECTION 13. Initial applicability.**

4 (1) This act first applies to offenses committed on the effective date of this  
5 subsection but does not preclude the counting of other offenses as prior offenses for  
6 purposes of sentencing by a court.

7 (END)