

1985 Senate Bill 269

Date of enactment: **March 12, 1986**
Date of publication: **March 19, 1986**

1985 Wisconsin Act 128

AN ACT to amend 163.51 (27), 440.26 (3), 440.41 (3) (c), 450.07 (5), 452.19 and 458.02 (5) of the statutes, relating to fee-splitting among persons licensed to engage in real estate practice; advertising for patrons by cosmetology schools; exempting charitable organizations from certain registration requirements; requirements for refilling prescriptions for prescription drugs; renewals of licenses for private detectives; and dividing bingo prizes among multiple winners (suggested as remedial legislation by the department of regulation and licensing).

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the department of regulation and licensing, and introduced by the law revision committee under s. 13.83 (1) (c) 4, stats. After careful consideration of the various provisions of this bill, the law revision committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

SECTION 1. 163.51 (27) of the statutes is amended to read:

163.51 (27) MORE THAN ONE WINNER. When more than one player is found to be the winner on the call of the same number in the same bingo game, a cash prize shall be divided equally, ~~to the nearest nickel,~~ among the winners, ~~except that any.~~ The licensed organization may elect to round off the prize to any amount between the next lower dollar and the next higher dollar. Any licensed organization may elect to set a minimum prize of not exceeding \$10 for each winner. When equal division of a merchandise prize is not possible, identical substitute prizes whose aggregate retail value is approximately equal to that of the designated prize may be awarded or a cash prize equal to the retail value may be divided ~~to the nearest nickel among the winners as provided in this subsection.~~

NOTE: Current s. 163.51 (27), stats., requires that bingo prizes which are won by more than one person be divided to the

nearest nickel. This proposal simplifies the procedure for dividing prizes, by permitting bingo organizations to divide prizes to the next lower or next higher dollar.

SECTION 2. 440.26 (3) of the statutes is amended to read:

440.26 (3) ISSUANCE OF LICENSES; FEES. Upon receipt and examination of an application executed under sub. (2), and after any investigation deemed necessary, the department shall if it deems the applicant qualified, grant the proper license upon payment of the fee specified in s. 440.05 (8) if the applicant is an agency or upon payment of the fee specified in s. 440.05 (1) if the applicant is a private detective. No license shall be issued for a longer period than 2 years, and the license of a private detective shall expire on the expiration date of the agency's license even though the private detective's license may not have been in effect for a full 2 years. Renewals of the original licenses issued under this section shall be issued in accordance with renewal forms prescribed by the department, and shall be accompanied by the fees specified in s. 440.05 (3) to (5) and (8) and bonds or liability policies specified in this section. The department may not renew a license unless the applicant provides evidence that the applicant has in force at the time of renewal the bond or liability policy specified in this section.

NOTE: The literal meaning of current s. 440.26 (3), stats., requires that a bond or liability policy accompany a license renewal application for private detectives. This amendment

provides a more flexible procedure, which requires the applicant to provide evidence of coverage by a bond or liability policy at the time of renewal. The department may refuse to renew a license if the evidence is not on file.

SECTION 3. 440.41 (3) (c) of the statutes is amended to read:

440.41 (3) (c) Any charitable organization which does not intend to solicit and receive and does not actually receive contributions in excess of ~~\$3,000~~ \$4,000 during any 12-month period ending December 31 of any year, provided all of its fund raising functions are carried on by persons who are unpaid for such services. However, if the gross contributions received by such charitable organization during any 12-month period ending December 31 of any year is in excess of ~~\$3,000~~ \$4,000, it shall, within 30 days after the date it has received total contributions in excess of ~~\$3,000~~ \$4,000, register with the department under sub. (2). Fraternal, civic, benevolent, patriotic and social organizations which solicit contributions solely from their membership shall not be required to register with the department.

NOTE: This statute provides an exemption from registration requirements for charitable organizations. The dollar amount in s. 440.41 (3) (c), stats., has been adjusted periodically to reflect the effects of inflation. As a result of this amendment, small charitable organizations, or those which collect relatively small sums, are not required to register with the department of regulation and licensing, file an annual report or affidavit and pay a fee of \$10 each.

SECTION 4. 450.07 (5) of the statutes is amended to read:

450.07 (5) No prescription for a prescription drug shall may be refilled except as designated on such the prescription, ~~and unless. An accurate record of such refilling is entered on such prescription shall be maintained showing the date and amount thereof.~~ No oral or written prescription shall may be refilled unless the requirements of sub. (2) have been met first and unless either written or oral authority has been given by the prescriber.

NOTE: This amendment removes the requirement that refill information be kept on the back of the prescription blank. It

will allow pharmacies to keep the information in other ways, such as on a computer.

SECTION 5. 452.19 of the statutes is amended to read:

452.19 Fee-splitting. No licensed broker, registered cemetery association or corporation or registered cemetery salesperson may pay a fee or a commission or any part thereof for performing any act specified in this chapter or as compensation for a referral or as a finder's fee to any person who is not licensed or registered under this chapter or who is not regularly and lawfully engaged in the real estate brokerage or cemetery sales business in another state, a territory or possession of the United States or a foreign country.

NOTE: This amendment includes cemetery associations or corporations in the prohibition of payment of referral fees to persons who are not real estate brokers. Also, this amendment provides that Wisconsin real estate licensees may not pay referral fees to persons outside of the United States who are not real estate brokers.

SECTION 6. 458.02 (5) of the statutes is amended to read:

458.02 (5) A school shall provide its students with subjects for practical work. ~~No A school shall may~~ advertise for patrons to be used in clinical work if the advertisement clearly states that all services are performed by students under the direction of licensed cosmetology instructors.

NOTE: The cosmetology examining board has been advised by counsel, based on recent court cases, that prohibitions against advertising for reasons other than to prohibit false, misleading or deceptive advertising may be unconstitutional in that they are anti-competitive. This amendment deletes the prohibition against advertising by cosmetology schools but requires the advertising to contain a statement regarding the nature of services performed at the school.

SECTION 7. **Initial applicability.** The treatment of section 440.41 (3) of the statutes by this act first applies to the 12-month period ending December 31, 1986.