

1999 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB76)

Received: 02/4/99

Received By: nelsorp1

Wanted: 02/4/99

Identical to LRB:

For: Scott Jensen (608) 266-3387

By/Representing: R J

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters: rkite
olsenje

Subject: Courts - miscellaneous
Trade Regulation
Criminal Law - sentencing

Extra Copies:

Topic:

Deceptive statements about year 2000 readiness and increasing penalties for computer-related crimes

Instructions:

See -2116/3 plus a0058/1

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 02/5/99	jgeller 02/5/99		_____			
/1			ismith 02/5/99 lrb_docadmin	_____	lrb_docadmin 02/5/99	lrb_docadmin 02/5/99	
			02/5/99	_____		lrb_docadmin 02/5/99	
/2			haugeca 02/5/99	_____	lrb_docadmin 02/5/99	lrb_docadmin 02/5/99	

FE Sent For:

<END>

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1/?	nelsorp1	1 2/5 JLG	IS 2/5/99	IS/KM 2/5/99			

FE Sent For:

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2/5 3pm

RVK, RPN + JEO / JLG

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 76

1

AN ACT ... relating to: ???

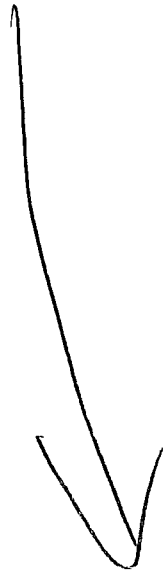
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

(END)



1999 BILL



Regen

✓ Computer crimes,

1 AN ACT to create 100.261 of the statutes; relating to untrue, deceptive or
 2 misleading statements in connection with the ability of an electronic computing
 3 device to process, transmit or receive data from, into and between the 20th
 4 and 21st centuries, and during the years 1999 and 2000, and from leap year
 5 calculations, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a person from making any statement or representation with regard to the year 2000 readiness of an electronic computing device, or a product containing an electronic computing device, which is false, misleading or deceptive. Under the bill, it is false, misleading or deceptive to state or represent that an electronic computing device, or a product containing an electronic computing device, is able to process, transmit or receive data from, into and between the 20th and 21st centuries and during the years 1999 and 2000, and from leap year calculations if the device or product cannot do so without modification or alteration.

A person who violates this prohibition may be subject to a forfeiture (civil monetary penalty) of not less than \$100 nor more than \$10,000. In addition, the department of justice at the request of the department of agriculture, trade and consumer protection (DATCP) or a district attorney may bring an action to restrain a person from violating the prohibition created in the bill and to award a person damaged by any violation twice the amount of damages the person suffered. Under the bill DATCP may request any person to provide DATCP with information about

BILL

the year 2000 readiness of any electronic computing device, or any product containing an electronic computing device, that the person sells or offers to sell or has ever sold or offered to sell in this state.

The bill also requires a person who manufactures or sells an electronic computing device, or a product containing an electronic computing device, to hand a written statement to the purchaser prior to the sale of the device or product indicating the device's or product's year 2000 readiness. The bill provides that a person who violates this provision is subject to a forfeiture of not less than \$50 nor more than \$200 for each violation.

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

1 **SECTION 1.** 100.261 of the statutes is created to read:

2 **100.261 Year 2000 readiness. (1) DEFINITIONS.** In this section:

3 (a) "Electronic computing device" means any computer hardware or software,
4 computer chip, embedded chip, process control equipment, or other information
5 system used to capture, store, manipulate, or process information, or that controls,
6 monitors, or assists in the operation of physical apparatus that relies on automation
7 or digital technology to function.

8 (b) "Process" includes calculate, compare, sequence, display and store.

9 (c) "Year 2000 readiness" means the ability to process, transmit or receive date
10 data from, into and between the 20th and 21st centuries, and during the years 1999
11 and 2000, and from leap year calculations.

⊙ → READINESS STATEMENT.

12 (2) A person who manufactures or sells an electronic computing device or a
13 product containing an electronic computing device may not offer the device or
14 product for sale in this state unless the manufacturer or seller hands a written
15 statement to the purchaser, before the sale, indicating the device's or product's year
16 2000 readiness. The statement shall be on white paper, with black type, of a type face
17 easy to read, and the type size shall be no smaller than 14 point. The language of the

BILL

1 statement shall be identical to the language in the form set forth under this
2 subsection. The manufacturer or seller shall check only one of the boxes on the form
3 set forth in this subsection. The format of the form shall be substantially as follows:

YEAR 2000 READINESS STATEMENT

4
5 **YES** This electronic computing device or product containing an electronic
6 computing device is year 2000 ready.

7 **NO** This electronic computing device or product containing an electronic
8 computing device is not year 2000 ready.

9 **UNKNOWN** We do not know if this electronic computing device or product
10 containing an electronic computing device is year 2000 ready.

11 **(3) ADVERTISING AND SALES REPRESENTATIONS.** A person may not make any
12 statement or representation with regard to the year 2000 readiness of an electronic
13 computing device, or a product containing an electronic computing device, which is
14 false, misleading or deceptive, or which omits material information with respect to
15 the year 2000 readiness of the device or product that is necessary to make the
16 statement not false, misleading or deceptive. For the purpose of this subsection, it
17 is false, misleading or deceptive to state or represent that an electronic computing
18 device, or a product containing an electronic computing device, is able to process,
19 transmit or receive data from, into and between the 20th and 21st centuries and
20 during the years 1999 and 2000, and from leap year calculations if the device or
21 product cannot do so without modification or alteration.

22 **(4) INFORMATION ON YEAR 2000 READINESS.** The department may request
23 information about the year 2000 readiness of an electronic computing device, or a
24 product containing an electronic computing device, from any person who sells or

BILL

SECTION 1

1 offers to sell or who has ever sold or offered to sell an electronic computing device,
2 or a product containing an electronic computing device, to a person in this state.

3 (5) REMEDIES AND PENALTIES. (a) 1. The department of agriculture, trade and
4 consumer protection may request the department of justice to commence, or any
5 district attorney, upon informing the department of agriculture, trade and consumer
6 protection, may commence an action in circuit court in the name of the state to
7 restrain by temporary or permanent injunction any violation of sub. (3). In addition
8 to injunctive relief, the court may award any person twice the amount of any
9 damages suffered because of a violation of sub. (3).

10 2. The department may exercise its authority under ss. 93.14 to 93.16 and
11 100.18 (11)(c) to administer this section. The department may subpoena persons and
12 require the production of books and other documents in a timely manner.

13 (b) Any person who violates sub. (2) shall forfeit not less than \$50 nor more than
14 \$200 for each violation of sub. (2).

15 (c) Any person who violates sub. (3) or who fails to respond to an information
16 request made by the department under sub. (4) or who provides information to the
17 department in response to a request made under sub. (4) that is false, misleading or
18 deceptive shall forfeit not less than \$100 nor more than \$10,000 for each offense.

19 (d) This section does not preempt the administration or enforcement of this
20 chapter or ch. 133. Practices in violation of this section may also constitute unfair
21 methods of competition or unfair trade practices under s. 100.20 (1) or (1t) or
22 fraudulent representations under s. 100.18 (1) or violate ch. 133.

Insert
22 ✓
23
4-22

→ **SECTION 2. Initial applicability.**

BILL

*YEAR 2000 READINESS. The treatment of section 100.261 ✓
of the statutes.*

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(1) ~~This act~~ first applies to electronic computing devices and products containing electronic computing devices sold, and to statements or representations made, on the effective date of this subsection.

(END)

*insert ✓
5-3 →*



**ASSEMBLY AMENDMENT,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 51**

In sect 4-22-

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 12, line 5: after that line insert:

3 ~~SECTION 12L.~~⁴ 943.70 (2) (b) 3. of the statutes is amended to read:

4 943.70 (2) (b) 3. A Class D felony if the damage is greater than \$2,500 ~~or if it~~
5 ~~causes an interruption or impairment of governmental operations or public~~
6 ~~communication, of transportation or of a supply of water, gas or other public service.~~

7 ~~SECTION 12M.~~⁸ 943.70 (2) (b) 4. of the statutes is amended to read:

8 943.70 (2) (b) 4. A Class ~~C~~^A felony if the offense creates a substantial and
9 unreasonable risk of death or great bodily harm to another or causes an interruption
10 or impairment of governmental operations or public communication, of
11 transportation or of a supply of water, gas or other public service."

12 **2.** Page 13, line 22: after that line insert:

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Insert 5-3



1 ~~(1)(a)~~ PENALTY FOR COMPUTER CRIMES. The treatment of section 943.70 (2) (b) 3. ✓
2 and 4. ✓ of the statutes first applies to offenses committed on the effective date of this
3 subsection. ✓

4

Allen
(END)

11

11



not run

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 1999 ASSEMBLY BILL 76

Regen

✓ Computer crimes

1 AN ACT *to amend* 943.70 (2) (b) 3. and 943.70 (2) (b) 4.; and *to create* 100.261
2 of the statutes; **relating to:** untrue, deceptive or misleading statements in
3 connection with the ability of an electronic computing device to process,
4 transmit or receive data from, into and between the 20th and 21st
5 centuries, and during the years 1999 and 2000, and from leap year calculations,
6 and providing a penalty.

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

7 SECTION 1. 100.261 of the statutes is created to read:

8 **100.261 Year 2000 readiness.** (1) DEFINITIONS. In this section:

9 (a) "Electronic computing device" means any computer hardware or software,
10 computer chip, embedded chip, process control equipment, or other information
11 system used to capture, store, manipulate, or process information, or that controls,

1 monitors, or assists in the operation of physical apparatus that relies on automation
2 or digital technology to function.

3 (b) “Process” includes calculate, compare, sequence, display and store.

4 (c) “Year 2000 readiness” means the ability to process, transmit or receive date
5 data from, into and between the 20th and 21st centuries, and during the years 1999
6 and 2000, and from leap year calculations.

7 (2) READINESS STATEMENT. A person who manufactures or sells an electronic
8 computing device or a product containing an electronic computing device may not
9 offer the device or product for sale in this state unless the manufacturer or seller *delivers or* ✓
10 hands a written statement to the purchaser, before the sale, indicating the device’s
11 or product’s year 2000 readiness. The statement shall be on white paper, with black
12 type, of a type face easy to read, and the type size shall be no smaller than 14 point.
13 The language of the statement shall be identical to the language in the form set forth
14 under this subsection. The manufacturer or seller shall check only one of the boxes
15 on the form set forth in this subsection. The format of the form shall be substantially
16 as follows:

17 YEAR 2000 READINESS STATEMENT

18 YES This electronic computing device or product containing an electronic
19 computing device is year 2000 ready.

20 NO This electronic computing device or product containing an electronic
21 computing device is not year 2000 ready.

22 UNKNOWN We do not know if this electronic computing device or product
23 containing an electronic computing device is year 2000 ready.

24 (3) ADVERTISING AND SALES REPRESENTATIONS. A person may not make any
25 statement or representation with regard to the year 2000 readiness of an electronic

1 computing device, or a product containing an electronic computing device, which is
2 false, misleading or deceptive, or which omits material information with respect to
3 the year 2000 readiness of the device or product that is necessary to make the
4 statement not false, misleading or deceptive. For the purpose of this subsection, it
5 is false, misleading or deceptive to state or represent that an electronic computing
6 device, or a product containing an electronic computing device, is able to process,
7 transmit or receive data from, into and between the 20th and 21st centuries and
8 during the years 1999 and 2000, and from leap year calculations if the device or
9 product cannot do so without modification or alteration.

10 (4) INFORMATION ON YEAR 2000 READINESS. The department may request
11 information about the year 2000 readiness of an electronic computing device, or a
12 product containing an electronic computing device, from any person who sells or
13 offers to sell or who has ever sold or offered to sell an electronic computing device,
14 or a product containing an electronic computing device, to a person in this state.

15 (5) REMEDIES AND PENALTIES. (a) 1. The department of agriculture, trade and
16 consumer protection may request the department of justice to commence, or any
17 district attorney, upon informing the department of agriculture, trade and consumer
18 protection, may commence an action in circuit court in the name of the state to
19 restrain by temporary or permanent injunction any violation of sub. (3). In addition
20 to injunctive relief, the court may award any person twice the amount of any
21 damages suffered because of a violation of sub. (3).

22 2. The department may exercise its authority under ss. 93.14 to 93.16 and
23 100.18 (11)(c) to administer this section. The department may subpoena persons and
24 require the production of books and other documents in a timely manner.

1 (b) Any person who violates sub. (2) shall forfeit not less than \$50 nor more than
2 \$200 for each violation of sub. (2).

3 (c) Any person who violates sub. (3) or who fails to respond to an information
4 request made by the department under sub. (4) or who provides information to the
5 department in response to a request made under sub. (4) that is false, misleading or
6 deceptive shall forfeit not less than \$100 nor more than \$10,000 for each offense.

7 (d) This section does not preempt the administration or enforcement of this
8 chapter or ch. 133. Practices in violation of this section may also constitute unfair
9 methods of competition or unfair trade practices under s. 100.20 (1) or (1t) or
10 fraudulent representations under s. 100.18 (1) or violate ch. 133.

11 **SECTION 2.** 943.70 (2) (b) 3. of the statutes is amended to read:

12 943.70 (2) (b) 3. A Class D felony if the damage is greater than \$2,500 ~~or if it~~
13 ~~causes an interruption or impairment of governmental operations or public~~
14 ~~communication, of transportation or of a supply of water, gas or other public service.~~

15 **SECTION 3.** 943.70 (2) (b) 4. of the statutes is amended to read:

16 943.70 (2) (b) 4. A Class ~~C~~ A felony if the offense creates a substantial and
17 unreasonable risk of death or great bodily harm to another or causes an interruption
18 or impairment of governmental operations or public communication, of
19 transportation or of a supply of water, gas or other public service.

20 **SECTION 4. Initial applicability.**

21 (1) YEAR 2000 READINESS. The treatment of section 100.261 of the statutes first
22 applies to electronic computing devices and products containing electronic
23 computing devices sold, and to statements or representations made, on the effective
24 date of this subsection.

