



Today
State of Wisconsin
2001 - 2002 LEGISLATURE

RMR
13
LRB-0454/13
MGG: [signature]

D-Note

WLF

DOA:.....Walker – Consumer information assessments

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, DATCP administers, investigates, and enforces certain consumer protection and trade practice laws and prosecutes violations of these laws. These laws include laws prohibiting or regulating methods of competition, fraudulent representations, fraudulent drug advertising, prize notices, mail-order sales, purchases of vegetables and dairy products from farmers, and advertising of telecommunications services. A person found to have violated one of these laws is subject to a forfeiture or a fine.

Under current law, a person is subject to a forfeiture if he or she violates a law relating to weights and measures. These include laws against obstructing or hindering a state or local inspector of weights or measures, causing any weight or measure used in the buying or selling of a commodity to be incorrect, and removing an official weights and measures inspector's tag from a commodity. If the violation is intentional, the person is subject to a fine.

Current law requires a court to impose an assessment equal to 15% of the fine or forfeiture if the court imposes a fine or forfeiture for a violation of any of these laws or local ordinances enacted pursuant to these laws. The bill raises the assessment to 25% of the fine or forfeiture. The assessments that are collected are deposited into an appropriation to DATCP to pay for providing consumers with information and

education. The amount deposited into this appropriation in a fiscal year is limited to \$85,000, with the balance remaining in the general fund. This bill expands the purpose for which these assessments may be used to include all other consumer protection activities conducted by DATCP and increases the limit for the deposit into the appropriation to \$185,000.

For further information see the *state and local* 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:

1 **SECTION 1.** 20.115 (1) (jb) of the statutes is amended to read:

2 20.115 (1) (jb) Consumer protection, information, and education. The amounts
3 in the schedule for consumer protection and consumer information and education.
4 All moneys received under s. 100.261 (3) (b) shall be credited to this appropriation
5 account, subject to the limit under s. 100.261 3 (c).

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 ~~**SECTION 2.** 59.25 (3) (f) 2. of the statutes is amended to read:~~

7 ~~59.25 (3) (f) 2. For all court imposed fines and forfeitures required by law to be
8 deposited in the state treasury, the amounts required by s. 757.05 for the penalty
9 assessment surcharge, the amounts required by s. 165.755 for the crime laboratories
10 and drug law enforcement assessment, the amounts required by s. 167.31 (5) for the
11 weapons assessment, the amounts required by s. 973.045 for the crime victim and
12 witness assistance surcharge, the amounts required by s. 938.34 (8d) for the
13 delinquency victim and witness assistance surcharge, the amounts required by s.
14 973.046 for the deoxyribonucleic acid analysis surcharge, the amounts required by
15 s. 961.41 (5) for the drug abuse program improvement surcharge, the amounts
16 required by s. 100.261 for the consumer information protection assessment, the
17 amounts authorized by s. 971.37 (1m) (c) 1. or required by s. 973.055 (1) for the~~

1 domestic abuse assessment, the amounts required by s. 253.06 (4) (c) for the
2 enforcement assessment under the supplemental food program for women, infants
3 and children, the amounts required by ss. 346.177, 346.495 and 346.65 (4r) for the
4 railroad crossing improvement assessment, the amounts required by s. 346.655 (2)
5 (a) and (b) for the driver improvement surcharge, the amounts required by s. 102.85
6 (4) for the uninsured employer assessment, the amounts required by s. 299.93 for the
7 environmental assessment, the amounts required by s. 29.983 for the wild animal
8 protection assessment, the amounts required by s. 29.987 for the natural resources
9 assessment surcharge, the amounts required by s. 29.985 for the fishing shelter
10 removal assessment, the amounts required by s. 350.115 for the snowmobile
11 registration restitution payment and the amounts required by s. 29.989 for natural
12 resources restitution payments, transmit to the state treasurer a statement of all
13 moneys required by law to be paid on the actions entered during the preceding month
14 on or before the first day of the next succeeding month, certified by the county
15 treasurer's personal signature affixed or attached thereto, and at the same time pay
16 to the state treasurer the amount thereof.

17 **SECTION 3.** ~~59.40 (2) (m) of the statutes is amended to read:~~

18 ~~59.40 (2) (m) Pay monthly to the treasurer for the use of the state the state's~~
19 ~~percentage of the fees required to be paid on each civil action, criminal action and~~
20 ~~special proceeding filed during the preceding month and pay monthly to the~~
21 ~~treasurer for the use of the state the percentage of court imposed fines and forfeitures~~
22 ~~required by law to be deposited in the state treasury, the amounts required by s.~~
23 ~~757.05 for the penalty assessment surcharge, the amounts required by s. 165.755 for~~
24 ~~the crime laboratories and drug law enforcement assessment, the amounts required~~
25 ~~by s. 167.31 (5) for the weapons assessment, the amounts required by s. 973.045 for~~

1 the crime victim and witness assistance surcharge, the amounts required by s.
2 938.34 (8d) for the delinquency victim and witness assistance surcharge, the
3 amounts required by s. 973.046 for the deoxyribonucleic acid analysis surcharge, the
4 amounts required by s. 961.41 (5) for the drug abuse program improvement
5 surcharge, the amounts required by s. 100.261 for the consumer information
6 protection assessment, the amounts authorized by s. 971.37 (1m) (c) 1. or required
7 by s. 973.055 for the domestic abuse assessment surcharge, the amounts required by
8 s. 253.06 (4) (c) for the enforcement assessment under the supplemental food
9 program for women, infants and children, the amounts required by ss. 346.177,
10 346.495 and 346.65 (4r) for the railroad crossing improvement assessment, the
11 amounts required by s. 346.655 for the driver improvement surcharge, the amounts
12 required by s. 102.85 (4) for the uninsured employer assessment, the amounts
13 required by s. 299.93 for the environmental assessment, the amounts required under
14 s. 29.983 for the wild animal protection assessment, the amounts required under s.
15 29.987 (1) (d) for the natural resources assessment surcharge, the amounts required
16 by s. 29.985 for the fishing shelter removal assessment, the amounts required by s.
17 350.115 for the snowmobile registration restitution payment and the amounts
18 required under s. 29.989 (1) (d) for the natural resources restitution payments. The
19 ~~payments shall be made by the 15th day of the month following receipt thereof.~~

20 **SECTION 4.** ~~66.0113 (1) (b) 7. c. of the statutes is amended to read:~~

21 66.0113 (1) (b) 7. c. That if the alleged violator makes a cash deposit and does
22 not appear in court, he or she either will be deemed to have tendered a plea of no
23 contest and submitted to a forfeiture, a penalty assessment imposed by s. 757.05, a
24 jail assessment imposed by s. 302.46 (1), a crime laboratories and drug law
25 enforcement assessment imposed by s. 165.755, any applicable consumer

1 ~~information protection~~ assessment imposed by s. 100.261 and any applicable
2 domestic abuse assessment imposed by s. 973.055 (1) not to exceed the amount of the
3 deposit or will be summoned into court to answer the complaint if the court does not
4 accept the plea of no contest.

5 **SECTION 5.** 66.0113 (1) (b) 7. d. of the statutes is amended to read:

6 66.0113 (1) (b) 7. d. That if the alleged violator does not make a cash deposit
7 and does not appear in court at the time specified, the court may issue a summons
8 or a warrant for the defendant's arrest or consider the nonappearance to be a plea
9 of no contest and enter judgment under sub. (3) (d), or the municipality may
10 commence an action against the alleged violator to collect the forfeiture, the penalty
11 assessment imposed by s. 757.05, the jail assessment imposed by s. 302.46 (1), the
12 crime laboratories and drug law enforcement assessment imposed by s. 165.755, any
13 applicable consumer ~~information protection~~ assessment imposed by s. 100.261 and
14 any applicable domestic abuse assessment imposed by s. 973.055 (1).

15 **SECTION 6.** 66.0113 (1) (c) of the statutes is amended to read:

16 66.0113 (1) (c) An ordinance adopted under par. (a) shall contain a schedule of
17 cash deposits that are to be required for the various ordinance violations, and for the
18 penalty assessment imposed by s. 757.05, the jail assessment imposed by s. 302.46
19 (1), the crime laboratories and drug law enforcement assessment imposed by s.
20 165.755, any applicable consumer ~~information protection~~ assessment imposed by s.
21 100.261 and any applicable domestic abuse assessment imposed by s. 973.055 (1), for
22 which a citation may be issued. The ordinance shall also specify the court, clerk of
23 court or other official to whom cash deposits are to be made and shall require that
24 receipts be given for cash deposits.

25 **SECTION 7.** 66.0113 (3) (a) of the statutes is amended to read:

1 ~~66.0113 (3) (a) The person named as the alleged violator in a citation may~~
2 ~~appear in court at the time specified in the citation or may mail or deliver personally~~
3 ~~a cash deposit in the amount, within the time and to the court, clerk of court or other~~
4 ~~official specified in the citation. If a person makes a cash deposit, the person may~~
5 ~~nevertheless appear in court at the time specified in the citation, but the cash deposit~~
6 ~~may be retained for application against any forfeiture, restitution, penalty~~
7 ~~assessment, jail assessment, crime laboratories and drug law enforcement~~
8 ~~assessment, consumer information protection assessment or domestic abuse~~
9 ~~assessment that may be imposed.~~

10 **SECTION 8.** 66.0113 (3) (b) of the statutes is amended to read:

11 66.0113 (3) (b) If a person appears in court in response to a citation, the citation
12 may be used as the initial pleading, unless the court directs that a formal complaint
13 be made, and the appearance confers personal jurisdiction over the person. The
14 person may plead guilty, no contest or not guilty. If the person pleads guilty or no
15 contest, the court shall accept the plea, enter a judgment of guilty and impose a
16 forfeiture, the penalty assessment imposed by s. 757.05, the jail assessment imposed
17 by s. 302.46 (1), the crime laboratories and drug law enforcement assessment
18 imposed by s. 165.755, any applicable consumer information protection assessment
19 imposed by s. 100.261 and any applicable domestic abuse assessment imposed by s.
20 973.055 (1). If the court finds that the violation meets the conditions in s. 800.093
21 (1), the court may order restitution under s. 800.093. A plea of not guilty shall put
22 all matters in the case at issue, and the matter shall be set for trial.

23 **SECTION 9.** 66.0113 (3) (c) of the statutes is amended to read:

24 66.0113 (3) (c) If the alleged violator makes a cash deposit and fails to appear
25 in court, the citation may serve as the initial pleading and the violator shall be

1 considered to have tendered a plea of no contest and submitted to a forfeiture, the
2 penalty assessment imposed by s. 757.05, the jail assessment imposed by s. 302.46
3 (1), the crime laboratories and drug law enforcement assessment imposed by s.
4 165.755, any applicable consumer information protection assessment imposed by s.
5 100.261 and any applicable domestic abuse assessment imposed by s. 973.055 (1) not
6 exceeding the amount of the deposit. The court may either accept the plea of no
7 contest and enter judgment accordingly or reject the plea. If the court finds the
8 violation meets the conditions in s. 800.093 (1), the court may summon the alleged
9 violator into court to determine if restitution shall be ordered under s. 800.093. If
10 the court accepts the plea of no contest, the defendant may move within 10 days after
11 the date set for the appearance to withdraw the plea of no contest, open the judgment
12 and enter a plea of not guilty if the defendant shows to the satisfaction of the court
13 that the failure to appear was due to mistake, inadvertence, surprise or excusable
14 neglect. If the plea of no contest is accepted and not subsequently changed to a plea
15 of not guilty, no costs or fees may be taxed against the violator, but a penalty
16 assessment, a jail assessment, a crime laboratories and drug law enforcement
17 assessment and, if applicable, a consumer information protection assessment or a
18 domestic abuse assessment shall be assessed. If the court rejects the plea of no
19 contest, an action for collection of the forfeiture, penalty assessment, jail assessment,
20 crime laboratories and drug law enforcement assessment, any applicable consumer
21 information protection assessment and any applicable domestic abuse assessment
22 may be commenced. A city, village, town sanitary district or public inland lake
23 protection and rehabilitation district may commence action under s. 66.0114 (1) and
24 a county or town may commence action under s. 778.10. The citation may be used
25 as the complaint in the action for the collection of the forfeiture, penalty assessment,

1 jail assessment, crime laboratories and drug law enforcement assessment, any
2 applicable consumer ~~information~~ protection assessment and any applicable
3 domestic abuse assessment.

4 **SECTION 10.** 66.0113 (3) (d) of the statutes is amended to read:

5 66.0113 (3) (d) If the alleged violator does not make a cash deposit and fails to
6 appear in court at the time specified in the citation, the court may issue a summons
7 or warrant for the defendant's arrest or consider the nonappearance to be a plea of
8 no contest and enter judgment accordingly if service was completed as provided
9 under par. (e) or the county, town, city, village, town sanitary district or public inland
10 lake protection and rehabilitation district may commence an action for collection of
11 the forfeiture, penalty assessment, jail assessment and crime laboratories and drug
12 law enforcement assessment, any applicable consumer ~~information~~ protection
13 assessment and any applicable domestic abuse assessment. A city, village, town
14 sanitary district or public inland lake protection and rehabilitation district may
15 commence action under s. 66.0114 (1) and a county or town may commence action
16 under s. 778.10. The citation may be used as the complaint in the action for the
17 collection of the forfeiture, penalty assessment, jail assessment and crime
18 laboratories and drug law enforcement assessment, any applicable consumer
19 ~~information~~ protection assessment and any applicable domestic abuse assessment.
20 If the court considers the nonappearance to be a plea of no contest and enters
21 judgment accordingly, the court shall promptly mail a copy or notice of the judgment
22 to the defendant. The judgment shall allow the defendant not less than 20 days from
23 the date of the judgment to pay any forfeiture, penalty assessment, jail assessment
24 and crime laboratories and drug law enforcement assessment, any applicable
25 consumer ~~information~~ protection assessment and any applicable domestic abuse

1 assessment imposed. If the defendant moves to open the judgment within 6 months
2 after the court appearance date fixed in the citation, and shows to the satisfaction
3 of the court that the failure to appear was due to mistake, inadvertence, surprise or
4 excusable neglect, the court shall reopen the judgment, accept a not guilty plea and
5 set a trial date.

6 **SECTION 11.** 66.0114 (1) (b) of the statutes is amended to read:

7 66.0114 (1) (b) Local ordinances, except as provided in this paragraph or ss.
8 345.20 to 345.53, may contain a provision for stipulation of guilt or no contest of any
9 or all violations under those ordinances, may designate the manner in which the
10 stipulation is to be made and may fix the penalty to be paid. When a person charged
11 with a violation for which stipulation of guilt or no contest is authorized makes a
12 timely stipulation, pays the required penalty and pays the penalty assessment
13 imposed by s. 757.05, the jail assessment imposed by s. 302.46 (1), the crime
14 laboratories and drug law enforcement assessment imposed by s. 165.755, any
15 applicable consumer information protection assessment imposed by s. 100.261 and
16 any applicable domestic abuse assessment imposed by s. 973.055 (1) to the
17 designated official, the person need not appear in court and no witness fees or other
18 additional costs may be taxed unless the local ordinance so provides. A court
19 appearance is required for a violation of a local ordinance in conformity with s. 346.63
20 (1).

21 **SECTION 12.** 66.0114 (1) (bm) of the statutes is amended to read:

22 66.0114 (1) (bm) The official receiving the penalties shall remit all moneys
23 collected to the treasurer of the city, village, town sanitary district or public inland
24 lake protection and rehabilitation district in whose behalf the sum was paid, except
25 that all jail assessments shall be remitted to the county treasurer, within 20 days

1 after its receipt by the official. If timely remittance is not made, the treasurer may
2 collect the payment of the officer by action, in the name of the office, and upon the
3 official bond of the officer, with interest at the rate of 12% per year from the date on
4 which it was due. In the case of the penalty assessment imposed by s. 757.05, the
5 crime laboratories and drug law enforcement assessment imposed by s. 165.755, the
6 driver improvement surcharge imposed by s. 346.655 (1), any applicable consumer
7 information protection assessment imposed by s. 100.261 and any applicable
8 domestic abuse assessment imposed by s. 973.055 (1), the treasurer of the city,
9 village, town sanitary district or public inland lake protection and rehabilitation
10 district shall remit to the state treasurer the amount required by law to be paid on
11 the actions entered during the preceding month on or before the first day of the next
12 succeeding month. The governing body of the city, village, town sanitary district or
13 public inland lake protection and rehabilitation district shall by ordinance designate
14 the official to receive the penalties and the terms under which the official qualifies.

15 **SECTION 13.** 100.261 (title) of the statutes is amended to read:

16 **100.261 (title) Consumer information protection assessment.**

17 **SECTION 14.** 100.261 (1) of the statutes is amended to read:

18 100.261 (1) If a court imposes a fine or forfeiture for a violation of this chapter,
19 ch. 98, a rule promulgated under this chapter or ch. 98 or an ordinance enacted under
20 this chapter or ch. 98, the court shall also impose a consumer information protection
21 assessment in an amount equal to ~~15%~~ 25% of the fine or forfeiture imposed. If
22 multiple violations are involved, the court shall base the consumer information
23 protection assessment upon the the total of the fine or forfeiture amounts for all
24 violations. If a fine or forfeiture is suspended in whole or in part, the court shall
25 reduce the assessment in proportion to the suspension.

1 **SECTION 15.** 100.261 (2) of the statutes is amended to read:

2 100.261 (2) If any deposit is made for a violation to which this section applies,
3 the person making the deposit shall also deposit a sufficient amount to include the
4 consumer ~~information~~ protection assessment required under this section. If the
5 deposit is forfeited, the amount of the consumer ~~information~~ protection assessment
6 shall be transmitted to the state treasurer under sub. (3). If the deposit is returned,
7 the consumer ~~information~~ protection assessment shall also be returned.

8 **SECTION 16.** 100.261 (3) (a) of the statutes is amended to read:

9 100.261 (3) (a) The clerk of court shall collect and transmit the consumer
10 ~~information~~ protection assessment amounts to the county treasurer under s. 59.40
11 (2) (m). The county treasurer shall then make payment to the state treasurer under
12 s. 59.25 (3) (f) 2.

13 **SECTION 17.** 100.261 (3) (b) 1. of the statutes is renumbered 100.261 (3) (b) and
14 amended to read:

15 100.261 (3) (b) The state treasurer shall deposit the consumer protection
16 assessment amounts in the general fund and shall credit them to the appropriation
17 account under s. 20.115 (1) (jb), subject to the limit under ~~subd. 2~~ par. (c).

18 **SECTION 18.** 100.261 (3) (b) 2. of the statutes is renumbered 100.261 (3) (c) and
19 amended to read:

20 100.261 (3) (c) The amount credited to the appropriation account under s.
21 20.115 (1) (jb) may not exceed ~~\$85,000~~ \$185,000 in each fiscal year.

22 ~~**SECTION 19.** 778.02 of the statutes is amended to read:~~

23 ~~**778.02 Action in name of state; complaint; attachment.** Every such~~
24 ~~forfeiture action shall be in the name of the state of Wisconsin, and it is sufficient to~~
25 ~~allege in the complaint that the defendant is indebted to the plaintiff in the amount~~

1 of the forfeiture claimed, according to the provisions of the statute that imposes it,
2 specifying the statute and for the penalty assessment imposed by s. 757.05, the jail
3 assessment imposed by s. 302.46 (1), the crime laboratories and drug law
4 enforcement assessment imposed by s. 165.755, the enforcement assessment
5 imposed under s. 253.06 (4) (c) or (5) (c), any applicable consumer ~~information~~
6 protection assessment imposed by s. 100.261 and any applicable domestic abuse
7 assessment imposed by s. 973.055 (1). If the statute imposes a forfeiture for several
8 offenses or delinquencies the complaint shall specify the particular offense or
9 delinquency for which the action is brought, with a demand for judgment for the
10 amount of the forfeiture, penalty assessment, jail assessment, crime laboratories
11 and drug law enforcement assessment, any applicable enforcement assessment, any
12 applicable consumer ~~information~~ protection assessment and any applicable
13 domestic abuse assessment. If the defendant is a nonresident of the state, an
14 attachment may issue.

15 ~~SECTION 20. 778.03 of the statutes is amended to read:~~

16 **778.03 Complaint to recover forfeited goods.** In an action to recover
17 property forfeited by any statute it shall be sufficient to allege in the complaint that
18 the property has been forfeited, specifying the statute, with a demand of judgment
19 for the delivery of the property, or the value thereof and for payment of the penalty
20 assessment imposed by s. 757.05, the jail assessment imposed by s. 302.46 (1), the
21 crime laboratories and drug law enforcement assessment imposed by s. 165.755, the
22 enforcement assessment imposed under s. 253.06 (4) (c) or (5) (c), any applicable
23 consumer ~~information~~ protection assessment imposed by s. 100.261 and any
24 applicable domestic abuse assessment imposed by s. 973.055 (1).

25 ~~SECTION 21. 778.06 of the statutes is amended to read:~~

1 **778.06 Action for what sum.** When a forfeiture is imposed, not exceeding a
2 specific sum or when it is not less than one sum or more than another, the action may
3 be brought for the highest sum specified and for the penalty assessment imposed by
4 s. 757.05, the jail assessment imposed by s. 302.46 (1), the crime laboratories and
5 drug law enforcement assessment imposed by s. 165.755, the enforcement
6 assessment imposed under s. 253.06 (4) (c) or (5) (c), any applicable consumer
7 information protection assessment imposed by s. 100.261 and any applicable
8 domestic abuse assessment imposed by s. 973.055 (1); and judgment may be
9 rendered for such sum as the court or jury shall assess or determine to be
10 proportionate to the offense.

11 **SECTION 22.** 778.10 of the statutes is amended to read:

12 **778.10 Municipal forfeitures, how recovered.** All forfeitures imposed by
13 any ordinance or regulation of any county, town, city or village, or of any other
14 domestic corporation may be sued for and recovered, under this chapter, in the name
15 of the county, town, city, village or corporation. It is sufficient to allege in the
16 complaint that the defendant is indebted to the plaintiff in the amount of the
17 forfeiture claimed, specifying the ordinance or regulation that imposes it and of the
18 penalty assessment imposed by s. 757.05, the jail assessment imposed by s. 302.46
19 (1), the crime laboratories and drug law enforcement assessment imposed by s.
20 165.755, any applicable consumer information protection assessment imposed by s.
21 100.261 and any applicable domestic abuse assessment imposed by s. 973.055 (1).
22 If the ordinance or regulation imposes a penalty or forfeiture for several offenses or
23 delinquencies the complaint shall specify the particular offenses or delinquency for
24 which the action is brought, with a demand for judgment for the amount of the
25 forfeiture, the penalty assessment imposed by s. 757.05, the jail assessment imposed

1 by s. 302.46 (1), the crime laboratories and drug law enforcement assessment
2 imposed by s. 165.755, any applicable consumer information protection assessment
3 imposed by s. 100.261 and any applicable domestic abuse assessment imposed by s.
4 973.055 (1). All moneys collected on the judgment shall be paid to the treasurer of
5 the county, town, city, village or corporation, except that all jail assessments shall be
6 paid to the county treasurer.

7 **SECTION 23.** 778.105 of the statutes is amended to read:

8 **778.105 Disposition of forfeitures.** Revenues from forfeitures imposed by
9 any court or any branch thereof for the violation of any municipal or county
10 ordinance shall be paid to the municipality or county. Penalty assessment payments
11 shall be made as provided in s. 757.05. Jail assessment payments shall be made as
12 provided in s. 302.46 (1). Crime laboratories and drug law enforcement assessment
13 payments shall be paid as provided in s. 165.755. Domestic abuse assessments shall
14 be made as provided in s. 973.055. Consumer information protection assessment
15 payments shall be made as provided in s. 100.261.

16 **SECTION 24.** 778.13 of the statutes is amended to read:

17 **778.13 Forfeitures collected, to whom paid.** All moneys collected in favor
18 of the state for forfeiture, except the portion to be paid to any person who sues with
19 the state, shall be paid by the officer who collects the forfeiture to the treasurer of the
20 county within which the forfeiture was incurred within 20 days after its receipt. In
21 case of any failure in the payment the county treasurer may collect the payment of
22 the officer by action, in the name of the office and upon the official bond of the officer,
23 with interest at the rate of 12% per year from the time when it should have been paid.
24 Penalty assessment payments shall be made as provided in s. 757.05. Jail
25 assessment payments shall be made as provided in s. 302.46 (1). Crime laboratories

1 and drug law enforcement assessment payments shall be paid as provided in s.
2 165.755. Domestic abuse assessments shall be made as provided in s. 973.055.
3 Enforcement assessments shall be made as provided in s. 253.06 (4) (c). Consumer
4 ~~information~~ protection assessment payments shall be made as provided in s.
5 100.261.

6 **SECTION 25.** 778.18 of the statutes is amended to read:

7 **778.18 Penalty upon municipal judge.** If any municipal judge, of his or her
8 own will, dismisses any action brought before the judge under this chapter, unless
9 by order of the district attorney or attorney general or the person joined as plaintiff
10 with the state, or renders a less judgment therein than is prescribed by law, or
11 releases or discharges any such judgment or part thereof without payment or
12 collection, the judge and the judge's sureties shall be liable, in an action upon the
13 judge's bond, for the full amount of the forfeitures imposed by law or of the forfeiture
14 imposed by the judge and for the penalty assessment imposed by s. 757.05, the jail
15 assessment imposed by s. 302.46 (1), the crime laboratories and drug law
16 enforcement assessment imposed by s. 165.755, any applicable consumer
17 ~~information~~ protection assessment imposed by s. 100.261 and any applicable
18 domestic abuse assessment imposed by s. 973.055 (1), or for an amount equal to the
19 amount in which any such judgment or any part thereof is released or discharged.
20 If any municipal judge gives time or delay to any person against whom any such
21 judgment is rendered by the judge, or takes any bond or security for its future
22 payment, the judge and the judge's sureties shall also be liable for the payment of the
23 judgment upon the judge's bond.

24 **SECTION 26.** 800.02 (2) (a) 8. of the statutes is amended to read:

1 ~~800.02 (2) (a) 8. Notice that if the defendant makes a deposit and fails to appear~~
2 ~~in court at the time fixed in the citation, the defendant is deemed to have tendered~~
3 ~~a plea of no contest and submits to a forfeiture, penalty assessment, jail assessment~~
4 ~~and crime laboratories and drug law enforcement assessment, any applicable~~
5 ~~consumer information protection assessment and any applicable domestic abuse~~
6 ~~assessment plus costs, including the fee prescribed in s. 814.65 (1), not to exceed the~~
7 ~~amount of the deposit. The notice shall also state that the court may decide to~~
8 ~~summon the defendant rather than accept the deposit and plea.~~

9 **SECTION 27.** 800.02 (3) (a) 5. of the statutes is amended to read:

10 ~~800.02 (3) (a) 5. A plain and concise statement of the violation identifying the~~
11 ~~event or occurrence from which the violation arose and showing that the plaintiff is~~
12 ~~entitled to relief, the ordinance, resolution or bylaw upon which the cause of action~~
13 ~~is based and a demand for a forfeiture, the amount of which shall not exceed the~~
14 ~~maximum set by the statute involved, the penalty assessment, the jail assessment,~~
15 ~~the crime laboratories and drug law enforcement assessment, any applicable~~
16 ~~consumer information protection assessment, any applicable domestic abuse~~
17 ~~assessment and such other relief that is sought by the plaintiff.~~

18 **SECTION 28.** 800.03 (3) of the statutes is amended to read:

19 ~~800.03 (3) The amount of the deposit shall be set by the municipal judge, but~~
20 ~~shall not be effective until approved by the governing body of the municipality. The~~
21 ~~amount shall not exceed the maximum penalty for the offense, including any penalty~~
22 ~~assessment that would be applicable under s. 757.05, any jail assessment that would~~
23 ~~be applicable under s. 302.46 (1), any crime laboratories and drug law enforcement~~
24 ~~assessment that would be applicable under s. 165.755, any consumer information~~
25 ~~protection assessment that would be applicable under s. 100.261 and any domestic~~

1 abuse assessment that would be applicable under s. 973.055 (1), plus court costs,
2 including the fee prescribed in s. 814.65 (1).

3 **SECTION 29.** 800.04 (2) (b) of the statutes is amended to read:

4 800.04 (2) (b) If the municipal judge determines that the defendant should not
5 be released under par. (a) and the defendant is charged with a traffic or boating
6 violation, the municipal judge shall release the defendant on a deposit in the amount
7 established by the uniform deposit schedule under s. 345.26 (2) (a) or under s. 23.66.
8 For other violations, the municipal judge shall establish a deposit in an amount not
9 to exceed the maximum penalty for the offense, including any penalty assessment
10 that would be applicable under s. 757.05, any jail assessment that would be
11 applicable under s. 302.46 (1), any crime laboratories and drug law enforcement
12 assessment that would be applicable under s. 165.755, any consumer information
13 protection assessment that would be applicable under s. 100.261 and any domestic
14 abuse assessment that would be applicable under s. 973.055 (1). If the judge in a 1st
15 class city determines that a defendant appearing before the judge through
16 interactive video and audio transmission should not be released under par. (a), the
17 judge shall inform the defendant that he or she has the right to appear personally
18 before a judge for a determination, not prejudiced by the first appearance, as to
19 whether he or she should be released without a deposit. On failure of the defendant
20 to make a deposit under this paragraph, he or she may be committed to jail pending
21 trial only if the judge finds that there is a reasonable basis to believe the person will
22 not appear in court.

23 **SECTION 30.** 800.04 (2) (c) of the statutes is amended to read:

24 800.04 (2) (c) If the defendant has made a deposit under par. (b) or s. 800.03
25 and does not appear, he or she is deemed to have tendered a plea of no contest and

1 submits to a forfeiture, a penalty assessment imposed by s. 757.05, a jail assessment
2 imposed by s. 302.46 (1), a crime laboratories and drug law enforcement assessment
3 imposed by s. 165.755, any applicable consumer information protection assessment
4 imposed by s. 100.261 and any applicable domestic abuse assessment imposed by s.
5 973.055 (1) plus costs, including the fee prescribed in s. 814.65 (1), not exceeding the
6 amount of the deposit. The court may either accept the plea of no contest and enter
7 judgment accordingly, or reject the plea and issue a summons. If the court finds that
8 the violation meets the conditions in s. 800.093 (1), the court may summon the
9 alleged violator into court to determine if restitution shall be ordered under s.
10 800.093. If the defendant fails to appear in response to the summons, the court shall
11 issue a warrant under s. 968.09. If the defendant has made a deposit but does appear,
12 the court shall allow the defendant to withdraw the plea of no contest.

13 **SECTION 31.** 800.09 (1) (intro.) of the statutes is amended to read:

14 800.09 (1) JUDGMENT. (intro.) If a municipal court finds a defendant guilty it
15 may render judgment by ordering restitution under s. 800.093 and payment of a
16 forfeiture, the penalty assessment imposed by s. 757.05, the jail assessment imposed
17 by s. 302.46 (1), the crime laboratories and drug law enforcement assessment
18 imposed by s. 165.755, any applicable consumer information protection assessment
19 imposed by s. 100.261 and any applicable domestic abuse assessment imposed by s.
20 973.055 (1) plus costs of prosecution, including the fee prescribed in s. 814.65 (1). The
21 court shall apply any payment received on a judgment that includes restitution to
22 first satisfy any payment of restitution ordered, then to pay the forfeiture,
23 assessments and costs. If the judgment is not paid, the court may proceed under par.
24 (a), (b) or (c) or any combination of those paragraphs, as follows:

25 **SECTION 32.** 800.09 (1) (a) of the statutes is amended to read:

1 800.09 (1) (a) The court may defer payment of any judgment or provide for
2 instalment payments. At the time the judgment is rendered, the court shall inform
3 the defendant, orally and in writing, of the date by which restitution and the
4 payment of the forfeiture, the penalty assessment, the jail assessment, the crime
5 laboratories and drug law enforcement assessment, any applicable consumer
6 ~~information~~ protection assessment and any applicable domestic abuse assessment
7 plus costs must be made, and of the possible consequences of failure to do so in timely
8 fashion, including imprisonment, as provided in s. 800.095, or suspension of the
9 defendant's motor vehicle operating privilege, as provided in par. (c), if applicable.
10 If the defendant is not present, the court shall ensure that the information is sent
11 to the defendant by mail. In 1st class cities, all of the written information required
12 by this paragraph shall be printed in English and Spanish and provided to each
13 defendant.

14 **SECTION 33.** 800.09 (2) (b) of the statutes is amended to read:

15 800.09 (2) (b) If the person charged fails to appear personally or by an attorney
16 at the time fixed for hearing of the case, the defendant may be deemed to have
17 entered a plea of no contest and the money deposited, if any, or such portion thereof
18 as the court determines to be an adequate penalty, plus the penalty assessment, the
19 jail assessment, the crime laboratories and drug law enforcement assessment, any
20 applicable consumer ~~information~~ protection assessment and any applicable
21 domestic abuse assessment plus costs, including the fee prescribed in s. 814.65 (1),
22 may be declared forfeited by the court or may be ordered applied upon the payment
23 of any penalty which may be imposed, together with the penalty assessment, the jail
24 assessment, the crime laboratories and drug law enforcement assessment, any
25 applicable consumer ~~information~~ protection assessment and any applicable

1 domestic abuse assessment plus costs. If the court finds that the violation meets the
2 conditions in s. 800.093 (1), the court may summon the alleged violator into court to
3 determine if restitution shall be ordered under s. 800.093. Any money remaining
4 after payment of any penalties, assessments, costs and restitution shall be refunded
5 to the person who made the deposit.

6 **SECTION 34.** 800.10 (2) of the statutes is amended to read:

7 800.10 (2) All forfeitures, fees, penalty assessments, crime laboratories and
8 drug law enforcement assessments, consumer ~~information~~ protection assessments,
9 domestic abuse assessments and costs paid to a municipal court under a judgment
10 before a municipal judge shall be paid to the municipal treasurer within 7 days after
11 receipt of the money by a municipal judge or other court personnel. At the time of
12 the payment, the municipal judge shall report to the municipal treasurer the title of
13 the action, the offense for which a forfeiture was imposed and the total amount of the
14 forfeiture, fees, penalty assessments, crime laboratories and drug law enforcement
15 assessments, consumer ~~information~~ protection assessments, domestic abuse
16 assessments and costs, if any. The treasurer shall disburse the fees as provided in
17 s. 814.65 (1). All jail assessments paid to a municipal court under a judgment before
18 a municipal judge shall be paid to the county treasurer within 7 days after receipt
19 of the money by a municipal judge or other court personnel.

20 **SECTION 35.** 800.12 (2) of the statutes is amended to read:

21 800.12 (2) A municipality may by ordinance provide that a municipal judge
22 may impose a forfeiture for contempt under sub. (1) in an amount not to exceed \$50
23 or, upon nonpayment of the forfeiture, penalty assessment under s. 757.05, jail
24 assessment under s. 302.46, crime laboratories and drug law enforcement
25 assessment under s. 165.755, any applicable consumer ~~information~~ protection

1 assessment under s. 100.261 and any applicable domestic abuse assessment under
2 s. 973.055 (1), a jail sentence not to exceed 7 days.

3 **SECTION 36.** 814.60 (2) (ai) of the statutes is amended to read:

4 814.60 (2) (ai) Consumer information protection assessment imposed by s.
5 100.261.

6 **SECTION 37.** 814.63 (3) (ai) of the statutes is amended to read:

7 814.63 (3) (ai) Consumer information protection assessment imposed by s.
8 100.261.

9 ~~**SECTION 38.** 973.05 (1) of the statutes is amended to read:~~

10 ~~973.05 (1) When a defendant is sentenced to pay a fine, the court may grant~~
11 ~~permission for the payment of the fine, of the penalty assessment imposed by s.~~
12 ~~757.05, the jail assessment imposed by s. 302.46 (1), the crime victim and witness~~
13 ~~assistance surcharge under s. 973.045, the crime laboratories and drug law~~
14 ~~enforcement assessment imposed by s. 165.755, any applicable deoxyribonucleic acid~~
15 ~~analysis surcharge under s. 973.046, any applicable drug abuse program~~
16 ~~improvement surcharge imposed by s. 961.41 (5), any applicable consumer~~
17 ~~information protection assessment imposed by s. 100.261, any applicable domestic~~
18 ~~abuse assessment imposed by s. 971.37 (1m) (c) 1. or 973.055, any applicable driver~~
19 ~~improvement surcharge imposed by s. 346.655, any applicable enforcement~~
20 ~~assessment imposed by s. 253.06 (4) (c), any applicable weapons assessment imposed~~
21 ~~by s. 167.31, any applicable uninsured employer assessment imposed by s. 102.85 (4),~~
22 ~~any applicable environmental assessment imposed by s. 299.93, any applicable wild~~
23 ~~animal protection assessment imposed by s. 29.983, any applicable natural resources~~
24 ~~assessment imposed by s. 29.987 and any applicable natural resources restitution~~
25 ~~payment imposed by s. 29.989 to be made within a period not to exceed 60 days. If~~

1 no such permission is embodied in the sentence, the fine, the penalty assessment, the
2 jail assessment, the crime victim and witness assistance surcharge, the crime
3 laboratories and drug law enforcement assessment, any applicable deoxyribonucleic
4 acid analysis surcharge, any applicable drug abuse program improvement
5 surcharge, any applicable consumer ~~information~~ protection assessment, any
6 applicable domestic abuse assessment, any applicable driver improvement
7 surcharge, any applicable enforcement assessment, any applicable weapons
8 assessment, any applicable uninsured employer assessment, any applicable
9 environmental assessment, any applicable wild animal protection assessment, any
10 applicable natural resources assessment and any applicable natural resources
11 restitution payment shall be payable immediately.

12 **SECTION 39.** 973.05 (2) of the statutes is amended to read:

13 973.05 (2) When a defendant is sentenced to pay a fine and is also placed on
14 probation, the court may make the payment of the fine, the penalty assessment, the
15 jail assessment, the crime victim and witness assistance surcharge, the crime
16 laboratories and drug law enforcement assessment, any applicable deoxyribonucleic
17 acid analysis surcharge, any applicable drug abuse program improvement
18 surcharge, any applicable consumer ~~information~~ protection assessment, any
19 applicable domestic abuse assessment, any applicable uninsured employer
20 assessment, any applicable driver improvement surcharge, any applicable
21 enforcement assessment under s. 253.06 (4) (c), any applicable weapons assessment,
22 any applicable environmental assessment, any applicable wild animal protection
23 assessment, any applicable natural resources assessment and any applicable
24 natural resources restitution payments a condition of probation. When the
25 payments are made a condition of probation by the court, payments thereon shall be

1 applied first to payment of the penalty assessment until paid in full, shall then be
2 applied to the payment of the jail assessment until paid in full, shall then be applied
3 to the payment of part A of the crime victim and witness assistance surcharge until
4 paid in full, shall then be applied to part B of the crime victim and witness assistance
5 surcharge until paid in full, shall then be applied to the crime laboratories and drug
6 law enforcement assessment until paid in full, shall then be applied to the
7 deoxyribonucleic acid analysis surcharge until paid in full, shall then be applied to
8 the drug abuse improvement surcharge until paid in full, shall then be applied to
9 payment of the driver improvement surcharge until paid in full, shall then be applied
10 to payment of the domestic abuse assessment until paid in full, shall then be applied
11 to payment of the consumer ~~information~~ protection assessment until paid in full,
12 shall then be applied to payment of the natural resources assessment if applicable
13 until paid in full, shall then be applied to payment of the natural resources
14 restitution payment until paid in full, shall then be applied to the payment of the
15 environmental assessment if applicable until paid in full, shall then be applied to the
16 payment of the wild animal protection assessment if applicable until paid in full,
17 shall then be applied to payment of the weapons assessment until paid in full, shall
18 then be applied to payment of the uninsured employer assessment until paid in full,
19 shall then be applied to payment of the enforcement assessment under s. 253.06 (4)
20 (e), if applicable, until paid in full and shall then be applied to payment of the fine.

21 **SECTION 40.** 973.07 of the statutes is amended to read:

22 **973.07 Failure to pay fine or costs or to comply with certain**
23 **community service work.** If the fine, costs, penalty assessment, jail assessment,
24 crime victim and witness assistance surcharge, crime laboratories and drug law
25 enforcement assessment, applicable deoxyribonucleic acid analysis surcharge,

1 applicable drug abuse program improvement surcharge, applicable consumer
2 ~~information~~ protection assessment, applicable domestic abuse assessment,
3 applicable driver improvement surcharge, applicable enforcement assessment
4 under s. 253.06 (4) (c), applicable weapons assessment, applicable uninsured
5 employer assessment, applicable environmental assessment, applicable wild animal
6 protection assessment, applicable natural resources assessment and applicable
7 natural resources restitution payments are not paid or community service work
8 under s. 943.017 (3) is not completed as required by the sentence, the defendant may
9 be committed to the county jail until the fine, costs, penalty assessment, jail
10 assessment, crime victim and witness assistance surcharge, crime laboratories and
11 drug law enforcement assessment, applicable deoxyribonucleic acid analysis
12 surcharge, applicable drug abuse program improvement surcharge, applicable
13 consumer ~~information~~ protection assessment, applicable domestic abuse
14 assessment, applicable driver improvement surcharge, applicable enforcement
15 assessment under s. 253.06 (4) (c), applicable weapons assessment, applicable
16 uninsured employer assessment, applicable environmental assessment, applicable
17 wild animal protection assessment, applicable natural resources assessment or
18 applicable natural resources restitution payments are paid or discharged, or the
19 community service work under s. 943.017 (3) is completed, for a period fixed by the
20 court not to exceed 6 months.

21 **SECTION 9304. Initial applicability; agriculture, trade and consumer**
22 **protection.**

23 (1) CONSUMER PROTECTION ASSESSMENTS. The treatment of sections 20.115 (1)
24 (jb), 59.25 (3) (f) 2., 59.40 (2) (m), 66.0113 (1) (b) 7. c. and d. and (c) and (3) (a), (b),
25 (c), and (d), 66.0114 (1) (b) and (bm), 100.261 (title), (1), (2), and (3) (a) and (b) 1.,

1 778.02, 778.03, 778.06, 778.10, 778.105, 778.13, 778.18, 800.02 (2) (a) 8. and (3) (a)
2 5., 800.03 (3), 800.04 (2) (b) and (c), 800.09 (1) (intro.) and (a) and (2) (b), 800.10 (2),
3 800.12 (2), 814.60 (2) (ai), 814.63 (3) (ai), 973.05 (1) and (2), and 973.07 of the statutes
4 first applies to consumer protection assessments that are imposed for violations that
5 first occur on the effective date of this subsection.

6 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0454/3 dn
RNK.....

WJ



William Walker:

~~Kirsten Grinde and Andrew Stebbins~~

This draft reconciles LRB-0454 and LRB-1394. Both of these drafts should continue to appear in the compiled bill.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0454/3dn
RNK:wlj:kjf

February 7, 2001

William Walker:

This draft reconciles LRB-0454 and LRB-1394. Both of these drafts should continue to appear in the compiled bill.

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DOA:.....Walker – Consumer information assessments

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COURTS AND PROCEDURE

OTHER COURTS AND PROCEDURE

Under current law, DATCP administers, investigates, and enforces certain consumer protection and trade practice laws and prosecutes violations of these laws. These laws include laws prohibiting or regulating methods of competition, fraudulent representations, fraudulent drug advertising, prize notices, mail-order sales, purchases of vegetables and dairy products from farmers, and advertising of telecommunications services. A person found to have violated one of these laws is subject to a forfeiture or a fine.

Under current law, a person is subject to a forfeiture if he or she violates a law relating to weights and measures. These include laws against obstructing or hindering a state or local inspector of weights or measures, causing any weight or measure used in the buying or selling of a commodity to be incorrect, and removing an official weights and measures inspector's tag from a commodity. If the violation is intentional, the person is subject to a fine.

Current law requires a court to impose an assessment equal to 15% of the fine or forfeiture if the court imposes a fine or forfeiture for a violation of any of these laws or local ordinances enacted pursuant to these laws. The bill raises the assessment to 25% of the fine or forfeiture. The assessments that are collected are deposited into an appropriation to DATCP to pay for providing consumers with information and

education. The amount deposited into this appropriation in a fiscal year is limited to \$85,000, with the balance remaining in the general fund. This bill expands the purpose for which these assessments may be used to include all other consumer protection activities conducted by DATCP and increases the limit for the deposit into the appropriation to \$185,000.

For further information see the *state and local* 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:

1 **SECTION 1.** 20.115 (1) (jb) of the statutes is amended to read:

2 20.115 (1) (jb) *Consumer protection, information, and education.* The amounts
3 in the schedule for consumer protection and consumer information and education.
4 All moneys received under s. 100.261 (3) (b) shall be credited to this appropriation
5 account, subject to the limit under s. 100.261 3 (c).

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 **SECTION 2.** 100.261 (title) of the statutes is amended to read:

7 **100.261 (title) Consumer information protection assessment.**

8 **SECTION 3.** 100.261 (1) of the statutes is amended to read:

9 100.261 (1) If a court imposes a fine or forfeiture for a violation of this chapter,
10 ch. 98, a rule promulgated under this chapter or ch. 98 or an ordinance enacted under
11 this chapter or ch. 98, the court shall also impose a consumer ~~information protection~~
12 assessment in an amount equal to ~~15%~~ 25% of the fine or forfeiture imposed. If
13 multiple violations are involved, the court shall base the consumer ~~information~~
14 protection assessment upon the the total of the fine or forfeiture amounts for all
15 violations. If a fine or forfeiture is suspended in whole or in part, the court shall
16 reduce the assessment in proportion to the suspension.

17 **SECTION 4.** 100.261 (2) of the statutes is amended to read:

1 100.261 (2) If any deposit is made for a violation to which this section applies,
2 the person making the deposit shall also deposit a sufficient amount to include the
3 consumer ~~information~~ protection assessment required under this section. If the
4 deposit is forfeited, the amount of the consumer ~~information~~ protection assessment
5 shall be transmitted to the state treasurer under sub. (3). If the deposit is returned,
6 the consumer ~~information~~ protection assessment shall also be returned.

7 **SECTION 5.** 100.261 (3) (a) of the statutes is amended to read:

8 100.261 (3) (a) The clerk of court shall collect and transmit the consumer
9 ~~information~~ protection assessment amounts to the county treasurer under s. 59.40
10 (2) (m). The county treasurer shall then make payment to the state treasurer under
11 s. 59.25 (3) (f) 2.

12 **SECTION 6.** 100.261 (3) (b) 1. of the statutes is renumbered 100.261 (3) (b) and
13 amended to read:

14 100.261 (3) (b) The state treasurer shall deposit the consumer protection
15 assessment amounts in the general fund and shall credit them to the appropriation
16 account under s. 20.115 (1) (jb), subject to the limit under ~~subd. 2~~ par. (c).

17 **SECTION 7.** 100.261 (3) (b) 2. of the statutes is renumbered 100.261 (3) (c) and
18 amended to read:

19 100.261 (3) (c) The amount credited to the appropriation account under s.
20 20.115 (1) (jb) may not exceed ~~\$85,000~~ \$185,000 in each fiscal year.

21 **SECTION 8.** 814.60 (2) (ai) of the statutes is amended to read:

22 814.60 (2) (ai) Consumer ~~information~~ protection assessment imposed by s.
23 100.261.

24 **SECTION 9.** 814.63 (3) (ai) of the statutes is amended to read:

