



2009 ASSEMBLY BILL 326

June 19, 2009 – Introduced by Representatives ZIPPERER, MONTGOMERY, J. OTT, PETERSEN, GUNDRUM, BROOKS, TOWNSEND, LOTHIAN, VAN ROY, PETROWSKI, VOS, NERISON, MURSAU, SPANBAUER, STRACHOTA, BIES and GUNDERSON, cosponsored by Senators CARPENTER, LAZICH, KANAVAS, HOLPERIN, PLALE, SCHULTZ, HANSEN, OLSEN, DARLING and LASSA. Referred to Committee on Criminal Justice.

1 **AN ACT** *to renumber and amend* 943.21 (1c); *to amend* 943.21 (title), 943.21
2 (3) (am) (intro.) and 943.212 (title); and *to create* 943.21 (1c) (b), 943.21 (1m)
3 (e) and 943.21 (2t) of the statutes; **relating to:** committing fraud on certain
4 service providers and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not fraudulently obtain lodging, food or beverage, gasoline, taxicab service, or admission to a recreational or entertainment venue. Current law defines fraud as an intentional refusal to pay for the item, service, or admission when the bill is due; giving false information to the provider of the item, service, or admission in order to gain admission or avoid payment; or issuing a worthless check to pay for the item, service, or admission.

A person who fraudulently obtains an item, service, or admission that is worth \$2500 or less is guilty of a Class A misdemeanor and may be fined up to \$10,000, imprisoned for up to nine months, or both. If the value of the item, service, or admission is more than \$2500, the person is guilty of a Class I felony and may be fined up to \$10,000, imprisoned for up to three years and six months, or both.

In addition, current law allows the victim of a person who fraudulently obtained lodging, food or beverage, gasoline, taxicab service, or admission to a recreational or amusement venue to seek a civil judgment against the person for the cost of the item, service, or admission; property damage and other costs; and attorney fees and exemplary damages of up to \$300.

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This bill prohibits a person from fraudulently obtaining a service from a service provider. Under the bill, a service provider is a merchant who provides a service to a retail customer without a written contract and with the expectation that the customer will pay for the service upon completion of the service. The bill defines fraud against a service provider as failing or refusing to pay for a service rendered, with the intent to deprive the service provider of the full price of the service. The bill attaches the same criminal penalties and civil liability as are attached under current law to fraudulently obtaining lodging, food or beverage, gasoline, taxicab service, or admission to a recreational or entertainment venue.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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.** 943.21 (title) of the statutes is amended to read:

2 **943.21** (title) **Fraud on hotel or restaurant keeper, service provider,**
3 **recreational attraction, taxicab operator, or gas station.**

4 **SECTION 2.** 943.21 (1c) of the statutes is renumbered 943.21 (1c) (intro.) and
5 amended to read:

6 943.21 **(1c)** (intro.) In this section, “recreational:

7 **(a)** “Recreational attraction” means a public accommodation designed for
8 amusement and includes chair lifts or ski resorts, water parks, theaters,
9 entertainment venues, racetracks, swimming pools, trails, golf courses, carnivals,
10 and amusement parks.

11 **SECTION 3.** 943.21 (1c) (b) of the statutes is created to read:

12 943.21 **(1c)** (b) “Service provider” means a merchant who provides a service to
13 a retail customer without a written contract with the expectation that the service will
14 be paid for by the customer upon completion of the service.

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1 **SECTION 4.** 943.21 (1m) (e) of the statutes is created to read:

2 943.21 **(1m)** (e) Having obtained any service from a service provider,
3 intentionally fails or refuses to pay for the service with intent to deprive the service
4 provider permanently of the full price of the service.

5 **SECTION 5.** 943.21 (2t) of the statutes is created to read:

6 943.21 **(2t)** The failure or refusal, without the service provider's consent, to pay
7 a service provider the stated price for a service provided by the service provider
8 constitutes prima facie evidence of an intent to deprive the service provider
9 permanently of the full price of the service.

10 **SECTION 6.** 943.21 (3) (am) (intro.) of the statutes is amended to read:

11 943.21 **(3)** (am) (intro.) Whoever violates sub. (1m) (a), (b), ~~or~~ (c), or (e):

12 **SECTION 7.** 943.212 (title) of the statutes is amended to read:

13 **943.212** (title) **Fraud on hotel or restaurant keeper, service provider,**
14 **recreational attraction, taxicab operator, or gas station; civil liability.**

15 **(END)**