



## 2009 ASSEMBLY BILL 529

1 AN ACT *to amend* 551.604 (2) and 551.604 (4); and *to create* 551.508 (1m),  
2 551.603 (4) and 551.604 (4m) of the statutes; **relating to:** violations of the  
3 Wisconsin Uniform Securities Law and providing a penalty.

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*Analysis by the Legislative Reference Bureau*

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

4 **SECTION 1.** 551.508 (1m) of the statutes is created to read:  
5 551.508 (1m) ENHANCEMENT OF PENALTIES. (a) If a person is convicted of a crime  
6 under sub. (1) and the crime is committed against another person who is at least 65  
7 years of age when the crime is committed, for each such offense the maximum fine  
8 prescribed under sub. (1) may be increased by not more than \$5,000 and the  
9 maximum term of imprisonment prescribed under sub. (1) may be increased by not  
10 more than 5 years.

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1 (b) This subsection provides for the enhancement of the penalties applicable  
2 for the underlying crime. The court shall direct that the trier of fact find a special  
3 verdict as to the age of the victim at the time of the crime.

4 (c) It is no defense to the enhancement of penalties under this subsection that  
5 the person convicted did not know the age of the victim or reasonably believed that  
6 the victim was not at least 65 years of age.

7 **SECTION 2.** 551.603 (4) of the statutes is created to read:

8 551.603 (4) ENHANCEMENT OF CIVIL PENALTIES. (a) In any action under this  
9 section, if the court imposes a civil penalty under sub. (2) (b) 3. for any violation  
10 against another person who is at least 65 years of age when the violation occurs, for  
11 each such violation the civil penalty prescribed under sub. (2) (b) 3. for a single  
12 violation may be increased by not more than \$5,000 and the maximum civil penalty  
13 for more than one violation may be increased by not more than \$250,000.

14 (b) This subsection provides for the enhancement of the civil penalties  
15 applicable for any underlying violation. If the court is not the trier of fact, the court  
16 shall direct that the trier of fact find a special verdict as to the age of any victim at  
17 the time of the violation.

18 (c) It is no defense to the enhancement of civil penalties under this subsection  
19 that the defendant did not know the age of the victim or reasonably believed that the  
20 victim was not at least 65 years of age.

21 **SECTION 3.** 551.604 (2) of the statutes is amended to read:

22 551.604 (2) SUMMARY PROCESS. An order under sub. (1) is effective on the date  
23 of issuance. Upon issuance of the order, the administrator shall promptly serve each  
24 person subject to the order with a copy of the order and a notice that the order has  
25 been entered. The order must include a statement of any civil penalty, restitution.

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1 disgorgement, interest, or costs of investigation the administrator will seek, a  
2 statement of the reasons for the order, and notice that, within 15 days after receipt  
3 of a request in a record from the person, the matter will be scheduled for a hearing.  
4 If a person subject to the order does not request a hearing and none is ordered by the  
5 administrator within 30 days after the date of service of the order, the order,  
6 including the imposition of a civil penalty or requirement for payment of restitution,  
7 disgorgement, interest, or the costs of investigation sought in a statement in the  
8 order, becomes final as to that person by operation of law. If a hearing is requested  
9 or ordered, the administrator, after notice of and opportunity for hearing to each  
10 person subject to the order, may modify or vacate the order or extend it until final  
11 determination.

12 **SECTION 4.** 551.604 (4) of the statutes is amended to read:

13 551.604 (4) CIVIL PENALTY. In a final order under sub. (3), the administrator  
14 may impose a civil penalty in the form of an administrative assessment up to \$5,000  
15 for a single violation or up to \$250,000 for more than one violation except that, if the  
16 violation is committed against another person who is at least 65 years of age when  
17 the violation occurs, for each such violation the civil penalty may be up to \$10,000  
18 for a single violation or up to \$500,000 for more than one violation. It is no defense  
19 to the enhancement of civil penalties under this subsection that the defendant did  
20 not know the age of the victim or reasonably believed that the victim was not at least  
21 65 years of age.

22 **SECTION 5.** 551.604 (4m) of the statutes is created to read:

23 551.604 (4m) RESTITUTION, DISGORGEMENT, AND INTEREST. In a final order under  
24 sub. (3), in addition to any civil penalty under sub. (4) or costs under sub. (5), the  
25 administrator may order a person subject to the order to do any of the following:

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1 (a) Pay restitution to any person suffering loss as a result of the violation.

2 (b) Disgorge any profits received as a result of the violation.

3 (c) Pay interest at the legal rate under s. 138.04 from the date of the violation.

4 **SECTION 6. Initial applicability.**

5 (1) This act first applies to violations committed on the effective date of this  
6 subsection, but does not preclude the counting of other violations as prior violations  
7 for purposes of sentencing a person.

8 (END)