

# State of Wisconsin



2009 Assembly Bill 529

Date of enactment: April 21, 2010

Date of publication\*: May 5, 2010

## 2009 WISCONSIN ACT 196

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

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

**SECTION 1.** 551.508 (1m) of the statutes is created to read:

551.508 (1m) ENHANCEMENT OF PENALTIES. (a) If a person is convicted of a crime under sub. (1) and the crime is committed against another person who is at least 65 years of age when the crime is committed, for each such offense the maximum fine prescribed under sub. (1) may be increased by not more than \$5,000 and the maximum term of imprisonment prescribed under sub. (1) may be increased by not more than 5 years.

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

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

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

551.603 (4) ENHANCEMENT OF CIVIL PENALTIES. (a) In any action under this section, if the court imposes a civil penalty under sub. (2) (b) 3. for any violation against another person who is at least 65 years of age when the violation occurs, for each such violation the civil penalty

prescribed under sub. (2) (b) 3. for a single violation may be increased by not more than \$5,000 and the maximum civil penalty for more than one violation may be increased by not more than \$250,000.

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

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

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

551.604 (2) SUMMARY PROCESS. An order under sub. (1) is effective on the date of issuance. Upon issuance of the order, the administrator shall promptly serve each person subject to the order with a copy of the order and a notice that the order has been entered. The order must include a statement of any civil penalty, restitution, disgorgement, interest, or costs of investigation the administrator will seek, a statement of the reasons for the order, and notice that, within 15 days after receipt of a request in a record from the person, the matter will be scheduled for a hearing. If a person subject to the order does not request a hearing and none is ordered by the administra-

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

tor within 30 days after the date of service of the order, the order, including the imposition of a civil penalty or requirement for payment of restitution, disgorgement, interest, or the costs of investigation sought in a statement in the order, becomes final as to that person by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend it until final determination.

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

551.604 (4) CIVIL PENALTY. In a final order under sub. (3), the administrator may impose a civil penalty in the form of an administrative assessment up to \$5,000 for a single violation or up to \$250,000 for more than one violation except that, if the violation is committed against another person who is at least 65 years of age when the violation occurs, for each such violation the civil penalty may be up to \$10,000 for a single violation or up to \$500,000 for more than one violation. It is no defense to the enhancement of civil penalties under this subsection

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that the defendant did not know the age of the victim or reasonably believed that the victim was not at least 65 years of age.

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

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

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

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

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

**SECTION 6. Initial applicability.**

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