



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2013 Assembly Bill 191	Assembly Amendment 1
<i>Memo published:</i> September 18, 2013 <i>Contact:</i> Melissa Schmidt, Senior Staff Attorney (266-2298)	

Current Law

Under **current law**, it is a Class C forfeiture to commit a violation of theft of telecommunication service or theft of video service for the first time. The penalty for a Class C forfeiture is a forfeiture not to exceed \$500. However, these violations are considered civil, not criminal, offenses. This is because a crime is defined under the statutes as conduct that is prohibited by state law and punishable by fine or imprisonment, or both. Conduct that is punishable only by a forfeiture is not a crime.

Also, a person who incurs an injury as a result of a violation of theft of telecommunication service; theft of commercial mobile service; theft of video service; or theft of satellite cable programming may bring a civil action against the person who committed the violation. If the person who incurs the loss prevails in the civil action, and the violation is a first offense and not committed willfully and for the purpose of commercial advantage, the court shall grant the prevailing party actual damages, costs, and disbursements. A court may only grant reasonable attorney fees if the violation is a second or subsequent offense or was committed willfully and committed for commercial advantage.

2013 Assembly Bill 191

Assembly Bill 191 (“the bill”) makes it a Class C misdemeanor to commit a violation of theft of telecommunication service or theft of video service committed for the first time. In doing so, the bill makes these offenses criminal offenses, as the penalty for a Class C misdemeanor is a fine not to exceed \$500 or imprisonment not to exceed 30 days, or both.

The bill also allows a court to award reasonable attorney fees in civil actions for a violation of theft of telecommunication service; theft of commercial mobile service; theft of video service; or theft of satellite cable programming if the violation was a first offense and was not committed willfully and for the purpose of commercial advantage.

Assembly Amendment 1

Assembly Amendment 1 limits the amount of reasonable attorney fees that a court may award in a civil action described above. If the offense is a first offense, and it is not committed willfully and

for the purpose of commercial advantage, the court may grant reasonable attorney fees in an amount not to exceed the amount of actual damages.

Bill History

On September 11, 2013, Representative Kleefisch offered Assembly Amendment 1. On September 12, 2013, the Assembly Committee on Criminal Justice voted to recommend adoption of the amendment by a vote of Ayes, 7; Noes, 0; and Absent, 2; and voted to recommend passage of the bill, as amended, by a vote of Ayes, 6; Noes, 1; and Absent, 2.

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