

RNS:ty

12/12/2008

1 **AN ACT** *to renumber and amend* 94.77; and *to create* 94.77 (2) and 94.77 (3) of the
2 statutes; **relating to:** the plant industry and providing penalties.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Emergency Management and Continuity of Government.

Current law provides that any person who violates any provision of ch. 94, stats., for which a specific penalty is not prescribed must be fined not more than \$200 or imprisoned in the county jail for not more than 6 months or both. Portions of ch. 94, stats., for which no specific penalty is prescribed include provisions that deal with plant inspection and pest control, abatement of pests, inspection and licensing of nursery stock, and regulation of honeybees.

This bill increases the penalty to provide that any person who violates any provision of ch. 94, stats., for which a specific penalty is not prescribed, or an order issued or rule promulgated under such a provision, may be fined not more than \$1,000 for the first offense and may be fined not less than \$500 nor more than \$5,000 or imprisoned not more than 6 months or both for each subsequent offense. The bill also provides that in lieu of this criminal penalty, a person who violates any provision of this chapter for which a specific penalty is not prescribed, or an order issued or rule promulgated under such a provision, may be required to forfeit not less than \$200 nor more than \$5,000, or for an offense committed within 5 years of an offense for which a penalty has been assessed, may be required to forfeit not less than \$400 nor more than \$10,000.

In addition, the bill gives the Department of Agriculture, Trade and Consumer Protection the authority to seek an injunction restraining any person from violating ch. 94, stats., or a rule promulgated under that chapter.

3 **SECTION 1.** 94.77 of the statutes is renumbered 94.77 (1) and amended to read:

4 **94.77 (1) Penalties.** Any person who violates any provision of this chapter for which
5 a specific penalty is not prescribed shall, or an order issued or rule promulgated under such

1 a provision, may be fined not to exceed \$200 more than \$1,000 for the first offense and may
2 be fined not less than \$500 nor more than \$5,000 or imprisoned in the county jail not to exceed
3 not more than 6 months or both for each subsequent offense.

4 **SECTION 2.** 94.77 (2) of the statutes is created to read:

5 94.77 (2) In lieu of the criminal penalty under sub. (1), a person who violates any
6 provision of this chapter for which a specific penalty is not prescribed, or an order issued or
7 rule promulgated under such a provision, may be required to forfeit not less than \$200 nor
8 more than \$5,000 or, for an offense committed within 5 years of an offense for which a penalty
9 has been assessed under this section, may be required to forfeit not less than \$400 nor more
10 than \$10,000.

11 **SECTION 3.** 94.77 (3) of the statutes is created to read:

12 94.77 (3) The department may seek an injunction restraining any person from violating
13 this chapter or a rule promulgated under this chapter.

14 **SECTION 4. Initial applicability.** (1) The renumbering and amendment of section
15 94.77 of the statutes and the creation of section 94.77 (2) and (3) of the statutes first apply to
16 violations committed on the effective date of this subsection.

17 (END)