



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

---

April 15, 2015

Joint Committee on Finance

Paper #226

### **Delete Forfeiture Fee Exemptions (Circuit Courts)**

[LFB 2015-17 Budget Summary: Page 116, #3]

---

#### **CURRENT LAW**

Under current law, a \$25 forfeiture fee is assessed when judgment is entered against the defendant, except for the following: (a) prohibitions against smoking, responsibility of persons in charge violations; (b) motor vehicle liability insurance violation; (c) special identification cards for physically disabled violation; or (d) a safety belt use violation. Revenue from the fee is distributed as follows: (a) \$12.50 to the general fund; (b) \$5 to the Circuit Court Automation Programs; and (c) \$7.50 to the counties.

#### **GOVERNOR**

Delete the current exemptions for paying the \$25 fee in forfeiture actions.

#### **DISCUSSION POINTS**

1. A \$25 forfeiture fee is assessed when judgment is entered against the defendant, except for the following: (a) prohibitions against smoking, responsibility of persons in charge violations; (b) motor vehicle liability insurance violation; (c) special identification cards for physically disabled violation; or (d) a safety belt use violation. Revenue from the fee is distributed as follows: (a) \$12.50 to the general fund; (b) \$5 to the Circuit Court Automation Programs (CCAP); and (c) \$7.50 to the counties.

2. The bill would delete the current exemptions for the forfeiture fee in order to generate additional revenue. Estimated annual revenue generated under the bill would be as follows based on a two-year average of the violations occurring and an assumption of an 80% collection rate.

GPR	\$871,900
CCAP	348,800
Counties	<u>523,200</u>
Total	\$1,743,900

3. The Department of Administration indicates that the statutory change is intended to increase compliance with the law, in particular the use of seat belts. Further, removal of the exemptions will generate increased revenue to assist the courts and counties to recuperate a portion of operating costs.

4. It should be noted that under a separate provision, the bill would also eliminate current exemptions for the \$21.50 justice information surcharge, which include the same exemptions as the forfeiture fee, except for violations for smoking prohibitions to which the justice information surcharge already applies. As a result, individuals would pay an additional \$46.50 on each citation, except for smoking prohibitions which would be an additional \$25. The table below identifies the current forfeiture and surcharge amounts for each violation, and the amounts that would apply under the bill. [The modification of the justice information fee will be addressed in a separate issue paper.]

**Forfeiture Action and Justice Information System  
Fee Increases Contained in AB 21/SB 21**

<u>Offense</u>	<u>Statutory Reference</u>	<u>Current Total Cost</u>	<u>AB 21/SB 21</u>		
			<u>Forfeiture Action Fee</u>	<u>Justice Information Fee</u>	<u>Total Cost</u>
Smoking in an enclosed place*	101.123(2)	\$189.50 to \$339.50	\$25.00		\$214.50 to \$364.50
Person in charge allowing smoking in violation of statute after previous warning*	101.123(2m)(b) to (d)	189.50	25.00		214.50
Special identification for the physically disabled, failure to carry a statement of physical disability	343.51(1m)(b) and 343.52(1r)	10.00	25.00	\$21.50	56.50
Operating a motor vehicle without proof of insurance	344.62(2)	10.00	25.00	21.50	56.50
Mandatory seatbelts required for drivers, passengers and persons at least four years of age	347.48(2m)	10.00	25.00	21.50	56.50

\*Current cost already includes the \$21.50 justice information surcharge.

5. For the forfeiture action fee only, the table below identifies the total annual additional revenue estimated to be generated by applying the fee to each of the newly applicable offenses. In

addition, the table indicates the estimated amount of additional revenue to the general fund, the Court's program revenue appropriation for CCAP, and amounts retained by the counties.

<u>Offense</u>	<u>Forfeiture Action Fee</u>	<u>Additional Revenue</u>
Smoking in an enclosed place; and Person in charge allowing smoking in violation of statute after previous warning	\$25.00	\$800
General Fund	12.50	400
CCAP	5.00	200
County	7.50	200
Special identification for the physically disabled, failure to carry a statement of physical disability	\$25.00	\$0
General Fund	12.50	0
CCAP	5.00	0
County	7.50	0
Operating a motor vehicle without proof of insurance	\$25.00	\$777,300
General Fund	12.50	388,600
CCAP	5.00	155,500
County	7.50	233,200
Mandatory seatbelts required for drivers passengers and persons at least four years of age	\$25.00	\$965,800
General Fund	12.50	482,900
CCAP	5.00	193,200
County	7.50	289,800
Total		\$1,743,900
General Fund		871,900
CCAP		348,900
County		523,200

6. The increase in the forfeiture action fee was not included in the Court's biennial budget request.

7. Under the bill, the relatively small forfeiture amount for violating seatbelt use, proof of insurance and special ID card rules would increase 465% to \$56.50. Such an increase may be considered excessive. Some have argued that law enforcement officers may become increasingly unwilling to issue minor violation citations, concerned that the assessed amounts are too punitive. As a result, the number of citations, and thus revenue, may decline. To the extent the Committee wishes to modify the bill, some or all of the exemptions for the forfeiture fee could be deleted. [Alternatives 2.a.-d. and 3], As a result, revenue estimates would be modified as follows:

<u>Forfeiture Fee Exemptions</u>	<u>Annual Change to Revenue Under Bill</u>	
	<u>GPR</u>	<u>PR</u>
Smoking Violations	-\$400	-\$100
Proof of Insurance Violations	-388,600	-155,500
Special ID Card Violations	0	0
Safety Belt Use Violations	<u>-482,900</u>	<u>-193,200</u>
Total	-\$871,900	-\$348,800

8. On the other hand, modification or deletion of the fee exemptions would result in less revenue to the general fund, the Court's PR appropriation for CCAP, and funding for counties.

**ALTERNATIVES**

1. Approve the Governor's recommendation to delete the current exemptions for paying the \$25 fee in forfeiture actions.

2. Approve the Governor's recommendation to delete some of the current exemptions for paying the \$25 fee in forfeiture actions, with the modification of retaining the exemption for any of the following citations:

<u>Forfeiture Fee Exemption</u>	<u>Change to Revenue Under Bill - Biennial Amounts</u>	
	<u>GPR</u>	<u>PR</u>
a. Smoking Violations	-\$800	-\$200
b. Proof of Insurance Violations	-777,200	-311,000
c. Special ID Card Violations	0	0
d. Safety Belt Use Violations	-965,800	-386,400

3. Delete provision.

<b>ALT 3</b>	<b>Change to Bill</b>
GPR-REV	- \$1,743,800
PR-REV	- 697,700

Prepared by: Chris Carmichael