

1989 Senate Bill 28

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1989 WISCONSIN ACT 49

AN ACT *to amend* 196.60 (1) and (3), 196.604, 196.625, 196.65 (1) (intro.) and (2), 196.66, 196.67 (3), 196.68, 196.69 and 196.745 (2) (a); and *to create* 196.66 (3) and (4) of the statutes, **relating to**: certain fines and forfeitures related to the regulation of public utilities and providing a penalty.

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

SECTION 1. 196.60 (1) and (3) of the statutes are amended to read:

196.60 (1) (a) Except as provided under sub. (2), no public utility and no agent, as defined in s. 196.66 (3) (a), or officer of a public utility, directly or indirectly, may charge, demand, collect or receive from any person more or less compensation for any service rendered or to be rendered by it in or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water, telecommunications service or power or for any service in connection therewith, than that prescribed in the published schedules or tariffs then in force, or established under this chapter, or than it charges, demands, collects or receives from any other person for a like contemporaneous service.

(b) A public utility ~~which or an agent that~~ violates par. (a) shall be deemed guilty of unjust discrimination and shall forfeit not less than \$100 nor more than \$1,000 \$5,000 for each offense. An ~~agent or~~ officer who violates par. (a) shall be fined not less than \$50 nor more than \$100 \$2,500 for each offense.

(3) If a public utility gives an unreasonable preference or advantage to any person or subjects any person to any unreasonable prejudice or disadvantage, the public utility shall be deemed guilty of unjust discrimination. A public utility violating this subsection shall forfeit not less than \$50 nor more than \$1,000 \$5,000 for each offense.

SECTION 2. 196.604 of the statutes is amended to read:

196.604 Rebates, concessions and discriminations unlawful. No person may knowingly solicit, accept or receive any rebate, concession or discrimination from a public utility for any service in or affecting or relating to the production, transmission, delivery or furnishing of heat, light, water or power or the conveying of telephone messages within this state or for any connected service whereby the service is rendered or is to be rendered free or at a rate less than the rate named in the schedules and tariffs in force, or whereby any other service or advantage is received. Any person violating this section shall be fined not less than \$50 nor more than \$1,000 \$5,000 for each offense.

SECTION 3. 196.625 of the statutes is amended to read:

196.625 Discrimination by telecommunications utilities. Every telecommunications utility shall receive and transmit without discrimination messages from and for any person upon tender or payment of the usual or customary charges therefor, whenever requested to do so, without regard to the character of the messages to be transmitted unless a court of competent jurisdiction finds the messages to be in violation of s. 944.21 (3). Any ~~person~~ telecommunications utility or agent, as defined in s. 196.66 (3) (a), neglecting or refusing to comply with any of the provisions of this section shall forfeit not less than \$25 nor more than \$100 \$5,000 for each day of such neglect or refusal. Any director or officer of a telecommunications utility neglecting or refusing to comply with

any of the provisions of this section shall forfeit not less than \$25 nor more than \$2,500. Any employe of a telecommunications utility neglecting or refusing to comply with any of the provisions of this section shall forfeit not less than \$25 nor more than \$1,000. One-half of the forfeitures recovered under this section shall be paid to the person prosecuting under this section.

SECTION 4. 196.65 (1) (intro.) and (2) of the statutes are amended to read:

196.65 (1) (intro.) ~~Any officer, agent or employe of any~~ An officer of a public utility shall be fined not less than \$100 nor more than \$2,500, or an agent, as defined in s. 196.66 (3) (a), shall be fined not less than \$100 nor more than \$5,000 or an employe of a public utility shall be fined not less than \$100 nor more than \$1,000 for each offense if he or she the officer, agent or employe does any of the following:

(2) A penalty of not less than \$500 nor more than ~~\$1,000~~ \$5,000 shall be recovered from the public utility for each offense under sub. (1) if the officer, agent or employe of the public utility acted in obedience to the direction, instruction or request of the public utility or any general officer of the public utility.

SECTION 5. 196.66 of the statutes is amended to read:

196.66 (title) General forfeiture provisions. (1) (title) GENERAL FORFEITURE; FAILURE TO OBEY. If any public utility violates this chapter or ch. 197 or fails or refuses to perform any duty enjoined upon it for which a penalty has not been provided, or fails, neglects or refuses to obey any lawful requirement or order of the commission or the governing body of a municipality or a sanitary commission or any judgment or decree of any court upon its application, for every violation, failure or refusal the public utility shall forfeit not less than \$25 nor more than ~~\$1,000~~ \$5,000.

(2) (title) EACH DAY SEPARATE OFFENSE. Every day during which any public utility or any officer, agent, as defined in sub. (3) (a), or employe of a public utility fails to comply with any order or direction of the commission or to perform any duty enjoined by this chapter or ch. 197 shall constitute a separate and distinct violation under sub. (1). If the order is suspended, stayed or enjoined, this penalty shall not accrue.

SECTION 6. 196.66 (3) and (4) of the statutes are created to read:

196.66 (3) CONSIDERATIONS IN SETTING FORFEITURES.

(a) In this subsection, "agent" means an authorized person who acts on behalf of or at the direction of a public utility. "Agent" does not include a director, officer or employe of a public utility.

(b) A court imposing a forfeiture on a public utility or an agent, director, officer or employe of a public utility under this chapter shall consider all of the following in determining the amount of the forfeiture:

1. The appropriateness of the forfeiture to the volume of business of the public utility.

2. The gravity of the violation.

3. Any good faith attempt to achieve compliance after the public utility, agent, director, officer or employe receives notice of the violation.

(4) TREBLE MAXIMUM FORFEITURES. (a) If an act or omission causes death or a life-threatening or seriously debilitating injury, and is subject to a forfeiture proceeding under this chapter, the maximum forfeiture that may be imposed shall be trebled.

(b) If a public utility fails to comply with any rule, order or direction of the commission after actual receipt by the public utility of written notice from the commission specifying the failure, the maximum forfeiture under sub. (1) shall be \$15,000.

SECTION 7. 196.67 (3) of the statutes is amended to read:

196.67 (3) ~~Any person~~ A public utility or an agent, as defined in s. 196.66 (3) (a), violating this section shall be fined not less than \$50 nor more than \$300 \$5,000 for each offense. A director or officer of a public utility violating this section shall be fined not less than \$50 nor more than \$2,500 for each offense. An employe of a public utility violating this section shall be fined not less than \$50 nor more than \$1,000 for each offense.

SECTION 8. 196.68 of the statutes is amended to read:

196.68 Municipal officers, malfeasance. If any officer of a municipality which owns or operates a public utility does, causes or permits to be done any matter, act or thing prohibited or declared to be unlawful under this chapter or ch. 197 or omits, fails, neglects or refuses to perform any duty which is enjoined upon him or her and which relates directly or indirectly to the enforcement of this chapter and ch. 197, or if the officer omits, fails, neglects or refuses to obey any lawful requirement or order of the commission or any judgment or decree of a court upon its application, for every such violation, failure or refusal the officer shall forfeit not less than \$50 nor more than ~~\$500~~ \$2,500.

SECTION 9. 196.69 of the statutes is amended to read:

196.69 Interference with commission's equipment. (1) If any person destroys, injures or interferes with any apparatus or appliance owned, in the charge of or operated by the commission or its agent, the person shall be fined not more than ~~\$400~~ \$5,000 or imprisoned for not more than 30 days or both if the person is a public utility or an agent, as defined in s. 196.66 (3) (a), fined not more than \$2,500 or imprisoned for not more than 30 days or both if the person is a director or officer of a public utility, or fined not more than \$1,000 or imprisoned for not more than 30 days or both if the person is an employe of a public utility.

(2) Any public utility permitting a violation of this section shall forfeit not more than ~~\$1,000~~ \$5,000 for each offense.

SECTION 10. 196.745 (2) (a) of the statutes is amended to read:

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196.745 (2) (a) ~~Any person~~ A public utility or an agent, as defined in s. 196.66 (3) (a), violating sub. (1), or any order or rule issued under sub. (1), shall forfeit an amount not exceeding \$1,000 \$5,000. A director or officer violating sub. (1), or any order or rule issued under sub. (1), shall forfeit an amount not exceeding \$2,500.

An employe violating sub. (1), or any order or rule issued under sub. (1), shall forfeit an amount not exceeding \$1,000. Each day of violation is a separate violation of sub. (1). No person may forfeit an amount exceeding \$200,000 \$500,000 for a single persisting violation of sub. (1) or any order or any rule issued under sub. (1).