



## 1997 SENATE BILL 290

September 11, 1997 - Introduced by Senators CLAUSING and BURKE, cosponsored by Representatives BOCK, BLACK, LA FAVE, PLOUFF, RYBA, NOTESTEIN and BAUMGART. Referred to Committee on Agriculture and Environmental Resources.

1     **AN ACT to repeal** 289.96 (2); **to renumber** 289.43 (7) (d) and 289.43 (8) (c); **to**  
2     **renumber and amend** 289.96 (1) (a), 289.96 (1) (b) and 289.96 (3); **to amend**  
3     20.455 (1) (gh), 283.91 (4) and 291.97 (2) (a) 1.; and **to create** 289.96 (1m) of the  
4     statutes; **relating to:** violations of solid waste laws, permits and special orders  
5     and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, any person who violates this state's laws regulating the management of solid waste or any plan approval, license or special order issued by the department of natural resources (DNR) relating to solid waste shall forfeit not less than \$10 nor more than \$5,000 for each day of violation. This bill increases the maximum penalty for those violations to a forfeiture of \$25,000 per day.

This bill makes it a crime to intentionally violate this state's laws regulating the management of solid waste or any permit or special order issued by DNR relating to solid waste. Under the bill, a person who intentionally violates such laws, permits or approvals must be fined up to \$25,000 per day of violation or imprisoned for not more than 6 months or both. For a 2nd or subsequent violation, the person must be fined up to \$50,000 per day of violation or imprisoned for not more than 2 years or both.

Current law also prohibits any person from knowingly making a false statement to DNR relating to this state's regulation of pollutant discharges into the waters of this state. A person who makes such a false statement may be fined not

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less than \$10 nor more than \$10,000 or imprisoned for not more than 6 months or both. This bill changes the required mental state for this prohibition from “knowingly” to “intentionally”, and prohibits a person from intentionally causing another person to make such a false statement, subject to the same penalties.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 20.455 (1) (gh) of the statutes is amended to read:

2           20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for  
3 the expenses of investigation and prosecution of violations, including attorney fees,  
4 under ss. 49.49 (6), 100.263, 133.16, 281.98, 283.91 (5), 289.96 (~~3~~) (2), 292.99, 293.87  
5 (4), 295.19 (3) (b) and 299.97. Ten percent of all moneys received under ss. 49.49 (6),  
6 100.263, 133.16, 281.98, 283.91 (5), 289.96 (~~3~~) (2), 292.99, 293.87 (4), 295.19 (3) (b)  
7 and 299.97, for the expenses of investigation and prosecution of violations, including  
8 attorney fees, shall be credited to this appropriation account.

9           **SECTION 2.** 283.91 (4) of the statutes is amended to read:

10           283.91 (4) Any person who ~~knowingly~~ intentionally makes or intentionally  
11 causes another to make any false statement, representation, or certification in any  
12 application, record, report, plan, or other document filed or required to be  
13 maintained under this chapter or who falsifies, tampers with, or ~~knowingly~~  
14 intentionally renders inaccurate any monitoring device or method required to be  
15 maintained under this chapter, or intentionally causes another to do so, shall be fined  
16 not less than \$10 nor more than \$10,000 or imprisoned for not more than 6 months  
17 or both.

18           **SECTION 3.** 289.43 (7) (d) of the statutes is renumbered 289.43 (7) (d) 1.

19           **SECTION 4.** 289.43 (8) (c) of the statutes is renumbered 289.43 (8) (c) 1.

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1           **SECTION 5.** 289.96 (1) (a) of the statutes is renumbered 289.43 (7) (d) 2. and  
2 amended to read:

3           289.43 **(7)** (d) 2. No person may treat, store or dispose of high-volume  
4 industrial waste in violation of a testing requirement or condition of an exemption  
5 under s. ~~289.43 (7) (d)~~ subd. 1.

6           **SECTION 6.** 289.96 (1) (b) of the statutes is renumbered 289.43 (8) (c) 2. and  
7 amended to read:

8           289.43 **(8)** (c) 2. No person may violate a testing requirement or condition of an  
9 exemption from regulation under s. ~~289.43 (8) (e)~~ subd. 1.

10          **SECTION 7.** 289.96 (1m) of the statutes is created to read:

11          289.96 **(1m)** Any person who intentionally commits an act that violates this  
12 chapter or who intentionally fails to perform an act as required under this chapter  
13 or any rule promulgated or any permit or special order issued under this chapter or  
14 ss. 144.43 to 144.52, 1993 stats., shall be fined not more than \$25,000 per day of  
15 violation or imprisoned for not more than 6 months or both. For a 2nd or subsequent  
16 violation, the person shall be fined not more than \$50,000 per day of violation or  
17 imprisoned for not more than 2 years or both. While an order is suspended, stayed  
18 or enjoined, the penalty does not accrue.

19          **SECTION 8.** 289.96 (2) of the statutes is repealed.

20          **SECTION 9.** 289.96 (3) of the statutes is renumbered 289.96 and amended to  
21 read:

22          289.96 **(1)** ~~Except for the violations enumerated in sub. (1) as provided in sub.~~  
23 (1m), any person who violates this chapter or any rule promulgated or any plan  
24 approval, license or special order issued under this chapter shall forfeit not less than  
25 \$10 nor more than ~~\$5,000~~ \$25,000 for each violation. Each day of continued violation

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1 is a separate offense. While an order is suspended, stayed or enjoined, the penalty  
2 does not accrue.

3 (2) In addition to the penalties provided under ~~par. (a) sub. (1) or (1m)~~, the court  
4 may award the department of justice the reasonable and necessary expenses of the  
5 investigation and prosecution of the violation, including attorney fees. The  
6 department of justice shall deposit in the state treasury for deposit into the general  
7 fund all moneys that the court awards to the department or the state under this  
8 subsection. Ten percent of the money deposited in the general fund that was awarded  
9 under this subsection for the costs of investigation and the expenses of prosecution,  
10 including attorney fees, shall be credited to the appropriation account under s.  
11 20.455 (1) (gh).

12 **SECTION 10.** 291.97 (2) (a) 1. of the statutes is amended to read:

13 291.97 (2) (a) 1. In connection with an application, label, manifest, record,  
14 report, license or other document relating to this chapter, makes or causes another  
15 to make an untrue statement of a material fact or fails to state or causes another to  
16 fail to state a material fact with the result that the statements made in the document  
17 are misleading.

18 **SECTION 11. Initial applicability.**

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

22 (END)