



2009 ASSEMBLY BILL 929

April 6, 2010 – Introduced by Representatives POCAN and SINICKI, cosponsored by Senators RISSER and LASSA. Referred to Committee on Labor.

1 **AN ACT to amend** 71.63 (3) (d), 102.07 (8) (d), 108.24 (2m) and 111.327 of the
2 statutes; **relating to:** willful misclassification of an employee as a
3 nonemployee by a person engaged in the painting or drywall finishing of
4 buildings or other structures with intent to evade the laws related to income tax
5 withholding, worker's compensation, unemployment insurance, or
6 employment discrimination and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, any employer engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects who misclassifies an employee as a nonemployee willfully and with intent to evade any requirement of the laws relating to income tax withholding, worker's compensation, unemployment insurance, or employment discrimination is subject to a \$25,000 fine for each violation. This bill applies that fine to any person engaged in the painting or drywall finishing of buildings or other structures who willfully and with intent to evade any of those laws misclassifies an employee as a nonemployee.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

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

1 **SECTION 1.** 71.63 (3) (d) of the statutes, as created by 2009 Wisconsin Act 28,
2 is amended to read:

3 71.63 (3) (d) With regard to ss. 71.65 (6), “employer” means a person described
4 in s. 108.18 (2) (c) or a person engaged in the painting or drywall finishing of
5 buildings or other structures.

6 **SECTION 2.** 102.07 (8) (d) of the statutes, as created by 2009 Wisconsin Act 28,
7 is amended to read:

8 102.07 (8) (d) Any employer described in s. 108.18 (2) (c) or engaged in the
9 painting or drywall finishing of buildings or other structures who willfully and with
10 intent to evade any requirement of this chapter misclassifies or attempts to
11 misclassify an individual who is an employee of the employer as a nonemployee shall
12 be fined \$25,000 for each violation.

13 **SECTION 3.** 108.24 (2m) of the statutes, as created by 2009 Wisconsin Act 28,
14 is amended to read:

15 108.24 (2m) Any employer described in s. 108.18 (2) (c) or engaged in the
16 painting or drywall finishing of buildings or other structures who willfully provides
17 false information to the department for the purpose of misclassifying or attempting
18 to misclassify an individual who is an employee of the employer as a nonemployee
19 shall be fined \$25,000 for each violation.

20 **SECTION 4.** 111.327 of the statutes, as created by 2009 Wisconsin Act 28, is
21 amended to read:

