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(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2005-06

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on Judiciary, Corrections and Privacy...

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
  - (ab = Assembly Bill)                      (ar = Assembly Resolution)                      (ajr = Assembly Joint Resolution)
  - (sb = Senate Bill)                              (sr = Senate Resolution)                              (sjr = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Stefanie Rose (LRB) (July 2012)

## Senate

### Record of Committee Proceedings

#### **Committee on Judiciary, Corrections and Privacy**

##### **Senate Bill 215**

Relating to: regulating the minimum price of motor vehicle fuel.

By Senators Zien and Reynolds; cosponsored by Representatives Wood, Gundrum, Lehman and Wasserman.

May 24, 2005            Referred to Committee on Judiciary, Corrections and Privacy.

June 1, 2005            **PUBLIC HEARING HELD**

Present:    (5)    Senators Zien, Roessler, Grothman, Taylor and Risser.  
Absent:    (0)    None.

##### Appearances For

- Dave Zien, Madison — Senator
- Jeff Wood, Madison — Representative
- Tom Reynolds, Madison — Senator
- David Clark, Waukesha — Coalition for Lower Gas Prices
- Ernie Stetenfeld, Madison — AAA Wisconsin
- Craig Thompson, Madison — Wisconsin Counties Association
- Robert Collison, Brookfield — Americans for Prosperity
- Casey Coats, Blanchardville

##### Appearances Against

- John Kruepkr, Jackson — Jim Ltd
- Rick Lambrecht, Chippewa Falls — Consumers Cooperative Association
- Dane Hegenbarth, Galesville — Hegenbarth Food Group Inc.
- Todd Van Zeeland, Appleton — Van Zeeland Oil Company.
- Jim Goetz, Madison — Goetz Companies
- Ron Counsell, Watertown — Borderline BP
- Chuck Van Zeeland, Appleton — Petroleum Marketers
- Ed Francois, Belleville
- Ed Huck, Madison
- Richard McDonald, Manitowoc
- Richard Blatter, Lake Mills

- Keith Yelverton, Oconomowoc
- Tony Huppert, Spring Valley
- John Manske, Madison — Wisconsin Federation of Cooperatives
- Randy Meffert, Waunakee — Wisconsin Petroleum Marketers & Convenience Store Association
- Bob Bartlett, Madison — Wisconsin Petroleum Marketers & Convenience Store Association

Appearances for Information Only

- None.

Registrations For

- Mike Furgal, Madison — Veterans of Foreign Wars
- Marc Bentley, Madison — Schneider National
- Michael Theo, Madison — Murphy Oil USA
- Nate Elias, Madison — Wal-Mart

Registrations Against

- Scott Stenger, Madison — Tavern League of Wisconsin
- Bill Smith, Madison — National Federation of Independent Businesses
- Mary Ann Gerard, Madison — Wisconsin Auto & Truck Dealers Association
- Jolene Plautz, Madison — Kwik Trip
- Rick Genin, Madison — Genin's Mobil
- Marian Kruepke, Jackson
- Brandon Seltorz, Madison — Wisconsin Grocers Association
- David Becker, Windsor — Windsor Travel Center Inc.
- Gary Manke, Madison — Midwest Equipment Dealers Association
- Michael Seversin, Madison — Seversin's Service Center
- Peter Thacker, Middleton
- James Lund, Middleton — Jim's Amoco LLE
- Ferron Havens, Blue Mounds — Wisconsin Agribusiness Council
- Fred Goetz, Madison
- Gary Pivotto, Madison
- W.B. Hollenbeck, Hartland
- Eric Jensen, Madison — WBDA
- Sabrina Gentile, Madison — Wisconsin Farm Bureau
- Kathi Kilgore — Outdoor Advertising Association
- Michelle Kussow, Madison — Wisconsin Grocers Association

- Matt Hauser, Madison — Wisconsin Petroleum Marketers & Convenience Store Association

September 13, 2005 **EXECUTIVE SESSION HELD**

Present: (4) Senators Zien, Roessler, Grothman and Risser.  
Absent: (1) Senator Taylor.

Moved by Senator Zien, seconded by Senator Roessler that **Senate Amendment LRB0970** be recommended for adoption.

Ayes: (3) Senators Zien, Roessler and Risser.  
Noes: (2) Senators Grothman and Taylor.

ADOPTION OF SENATE AMENDMENT LRB0970 RECOMMENDED,  
Ayes 3, Noes 2

Moved by Senator Zien, seconded by Senator Roessler that **Senate Bill 215** be recommended for passage as amended.

Ayes: (2) Senators Zien and Roessler.  
Noes: (3) Senators Grothman, Taylor and Risser.

PASSAGE AS AMENDED NOT RECOMMENDED, Ayes 2, Noes 3

November 29, 2005 **EXECUTIVE SESSION HELD**

Present: (5) Senators Zien, Roessler, Grothman, Taylor and Risser.  
Absent: (0) None.

November 30, 2005 **EXECUTIVE SESSION HELD**

Present: (5) Senators Zien, Roessler, Grothman, Taylor and Risser.  
Absent: (0) None.

Moved by Senator Roessler, seconded by Senator Grothman that **Senate Substitute Amendment 2** be recommended for introduction and adoption.

Ayes: (5) Senators Zien, Roessler, Grothman, Taylor and Risser.  
Noes: (0) None.

INTRODUCTION AND ADOPTION OF SENATE SUBSTITUTE  
AMENDMENT 2 RECOMMENDED, Ayes 5, Noes 0

Moved by Senator Zien, seconded by Senator Roessler that **Senate Bill  
215** be recommended for passage as amended.

Ayes: (3) Senators Zien, Roessler and Grothman.

Noes: (2) Senators Taylor and Risser.

PASSAGE AS AMENDED RECOMMENDED, Ayes 3, Noes 2

Brian Deschane  
Committee Clerk

**Senate**

**Record of Committee Proceedings**

**Committee on Judiciary, Corrections and Privacy**

**Senate Bill 215**

Relating to: regulating the minimum price of motor vehicle fuel.

By Senators Zien and Reynolds; cosponsored by Representatives Wood, Gundrum, Lehman and Wasserman.

May 04, 2006            Referred to Committee on Judiciary, Corrections and Privacy.

May 4, 2006            Failed to pass pursuant to Senate Joint Resolution 1.

Kimber Liedl  
Committee Clerk



# STATE SENATOR DAVE ZIEN

**CHAIRPERSON**  
 COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY

**VICE CHAIRPERSON**  
 COMMITTEE ON VETERANS, HOMELAND SECURITY, MILITARY AFFAIRS, SMALL BUSINESS AND GOVERNMENT REFORM

**MEMBER**  
 COMMITTEE ON JOB CREATION, ECONOMIC DEVELOPMENT AND CONSUMER AFFAIRS  
 SENTENCING COMMISSION  
 COUNCIL ON TOURISM  
 JUDICIAL COUNCIL  
 JOINT LEGISLATIVE COUNCIL  
 BUILDING COMMISSION

**PRESIDENT PRO TEMPORE**

## MEMORANDUM

TO: Senator Glenn Grothman, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: November 30, 2005 (hand delivered 4:00pm)

RE: Executive Action Paper Ballot

Please consider the following bill and vote on the motions below. Return this ballot to Senator Dave Zien, Room 15 South, no later than 4:00pm (Thursday), December 1, 2005. Committee members' ballots not received by the deadline will be marked as not voting.

### Senate Bill 215

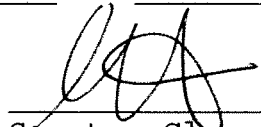
Relating to: regulating the minimum price of motor vehicle fuel.  
 By Senators Zien and Reynolds; cosponsored by Representatives Wood, Gundrum, Lehman and Wasserman.

- Moved by Senator Zien that Senate Substitute Amendment 2 be recommended for INTRODUCTION AND ADOPTION:

Aye   *α*   No                     

- Moved by Senator Zien that Senate Bill 215 be recommended for PASSAGE AS AMENDED:

Aye   *α*   No                     

  
 \_\_\_\_\_  
 Senator Glenn Grothman





# STATE SENATOR DAVE ZIEN

**CHAIRPERSON**

COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY

**VICE CHAIRPERSON**

COMMITTEE ON VETERANS, HOMELAND SECURITY, MILITARY AFFAIRS, SMALL BUSINESS AND GOVERNMENT REFORM

**MEMBER**

COMMITTEE ON JOB CREATION, ECONOMIC DEVELOPMENT AND CONSUMER AFFAIRS

SENTENCING COMMISSION

COUNCIL ON TOURISM

JUDICIAL COUNCIL

JOINT LEGISLATIVE COUNCIL

BUILDING COMMISSION

**PRESIDENT PRO TEMPORE**

## MEMORANDUM

TO: Senator Fred Risser, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: November 30, 2005 (hand delivered 4:00pm)

RE: Executive Action Paper Ballot

Please consider the following bill and vote on the motions below. **Return this ballot to Senator Dave Zien, Room 15 South, no later than 4:00pm (Thursday), December 1, 2005.** Committee members' ballots not received by the deadline will be marked as not voting.

### Senate Bill 215

Relating to: regulating the minimum price of motor vehicle fuel.

By Senators Zien and Reynolds; cosponsored by Representatives Wood, Gundrum, Lehman and Wasserman.

- Moved by Senator Zien that Senate Substitute Amendment 2 be recommended for INTRODUCTION AND ADOPTION:

Aye  No

- Moved by Senator Zien that Senate Bill 215 be recommended for PASSAGE AS AMENDED:

Aye  No

*Fred Risser (T.T.)*  
\_\_\_\_\_  
Senator Fred Risser







# STATE SENATOR DAVE ZIEN

**CHAIRPERSON**

COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY

**VICE CHAIRPERSON**

COMMITTEE ON VETERANS, HOMELAND SECURITY, MILITARY AFFAIRS, SMALL BUSINESS AND GOVERNMENT REFORM

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COMMITTEE ON JOB CREATION, ECONOMIC DEVELOPMENT AND CONSUMER AFFAIRS

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**PRESIDENT PRO TEMPORE**

## MEMORANDUM

TO: Senator Carol Roessler, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: November 30, 2005 (hand delivered 4:00pm)

RE: Executive Action Paper Ballot

Please consider the following bill and vote on the motions below. **Return this ballot to Senator Dave Zien, Room 15 South, no later than 4:00pm (Thursday), December 1, 2005.** Committee members' ballots not received by the deadline will be marked as not voting.

### Senate Bill 215

Relating to: regulating the minimum price of motor vehicle fuel.

By Senators Zien and Reynolds; cosponsored by Representatives Wood, Gundrum, Lehman and Wasserman.

- Moved by Senator Zien that Senate Substitute Amendment 2 be recommended for INTRODUCTION AND ADOPTION:

Aye   X   No \_\_\_\_\_

- Moved by Senator Zien that Senate Bill 215 be recommended for PASSAGE AS AMENDED:

Aye   X   No \_\_\_\_\_

*Carol Roessler*  
\_\_\_\_\_  
Senator Carol Roessler





# STATE SENATOR DAVE ZIEN

**CHAIRPERSON**

COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY

**PRESIDENT PRO TEMPORE**

**VICE CHAIRPERSON**

COMMITTEE ON VETERANS, HOMELAND SECURITY, MILITARY AFFAIRS, SMALL BUSINESS AND GOVERNMENT REFORM

**MEMBER**

COMMITTEE ON JOB CREATION, ECONOMIC DEVELOPMENT AND CONSUMER AFFAIRS

SENTENCING COMMISSION

COUNCIL ON TOURISM

JUDICIAL COUNCIL

JOINT LEGISLATIVE COUNCIL

BUILDING COMMISSION

## MEMORANDUM

TO: Senator Lena Taylor, Member, Senate Committee on Judiciary, Corrections & Privacy

FR: Senator Dave Zien, Chair, Senate Committee on Judiciary, Corrections & Privacy

DT: November 30, 2005 (hand delivered 4:00pm)

RE: Executive Action Paper Ballot

Please consider the following bill and vote on the motions below. **Return this ballot to Senator Dave Zien, Room 15 South, no later than 4:00pm (Thursday), December 1, 2005.** Committee members' ballots not received by the deadline will be marked as not voting.

### Senate Bill 215

Relating to: regulating the minimum price of motor vehicle fuel.

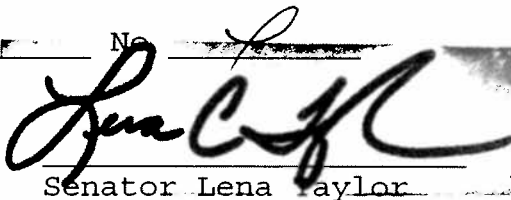
By Senators Zien and Reynolds; cosponsored by Representatives Wood, Gundrum, Lehman and Wasserman.

- Moved by Senator Zien that Senate Substitute Amendment 2 be recommended for INTRODUCTION AND ADOPTION:

Aye   *S*   No           

- Moved by Senator Zien that Senate Bill 215 be recommended for PASSAGE AS AMENDED:

Aye            No   *S*  

  
Senator Lena Taylor





- I. Call to order, the committee will now hold an **EXECUTIVE SESSION**.
- II. Clerk call the roll (hold open)
- III. **EXECUTIVE SESSION**

- **SB 161**: RELATING TO: <sup>weight gain obesity</sup> liens for metal fabrication tool builders and metal parts manufacturers and destruction of metal fabrication tools.

*We had a public hearing on SB 161 on November 22, 2005.*

- DISCUSSION 3-2, Party line
- The Chair will entertain a motion for **PASSAGE** of **SB 161**, moved by Senator grot, seconded by Senator Roes.
- Roll Call
- 3 for, 2 against
- Announce the vote and hold the roll open (if members are absent)

- ~~SB 215~~ RELATING TO: regulating the minimum price of motor vehicle fuel.

*We had a public hearing on SB 215 on June 1, 2005.*

- DISCUSSION
- The Chair will entertain a motion for **INTRODUCTION AND ADOPTION** of **SB 215**, moved by Senator \_\_\_\_\_, seconded by Senator \_\_\_\_\_.
- Roll Call
- \_\_\_\_\_ for, \_\_\_\_\_ against
- DISCUSSION
- The Chair will entertain a motion for **PASSAGE AS AMENDED** of **SB 215**, moved by Senator \_\_\_\_\_, seconded by Senator \_\_\_\_\_.
- Roll Call
- \_\_\_\_\_ for, \_\_\_\_\_ against
- Announce the vote and hold the roll open (if members are absent)

- **SB 271: RELATING TO:** requiring an individual who is suspected of child abuse or neglect to be advised of the specific allegations that have been made against him or her and requiring training for persons who investigate or treat child abuse and neglect to include training in the constitutional and other legal rights of a child who is being observed or interviewed in connection with the investigation and the child's family.

*We had a public hearing on SB 271 on November 22, 2005.*

- DISCUSSION
- The Chair will entertain a motion for **PASSAGE** of **SB 271**, moved by Senator Zien, seconded by Senator Cerroti. 2-3
- Roll Call
- 2 for, 3 against
- Announce the vote and hold the roll open (if members are absent)

- **SB 426: RELATING TO:** relating to: various changes in the unemployment insurance law, authorized positions for the department of justice, making appropriations, and providing penalties.

*We had a public hearing on SB 426 on November 22, 2005.*

- DISCUSSION 5-0
- The Chair will entertain a motion for **PASSAGE** of **SB 426**, moved by Senator Riss, seconded by Senator Roess.
- Roll Call
- 5 for, 0 against
- Announce the vote and hold the roll open (if members are absent)

- **SB 450: RELATING TO:** construction liens, requirements for securing payment for work on publicly financed projects, and providing a penalty.

*We had a public hearing on SB 450 on November 22, 2005.*

- DISCUSSION
- The Chair will entertain a motion for **PASSAGE** of **SB 450**, moved by Senator Roess, seconded by Senator Groth.
- Roll Call
- 3 for, 2 against Party
- Announce the vote and hold the roll open (if members are absent)

#### IV. Adjourn Executive Session

- I. Call to order, the committee will now hold an **EXECUTIVE SESSION**.
- II. Clerk call the roll (hold open)
- III. **EXECUTIVE SESSION**

A.P.

- **SB 215: RELATING TO:** regulating the minimum price of motor vehicle fuel.
- *We had a public hearing on SB 215 on June 1, 2005. We have a substitute amendment which was distributed before the committee meeting. September 13*

SSA2

Paper ballot

- DISCUSSION
- The Chair will entertain a motion for **ADOPTION** of Senate Substitute Amendment 2
- Roll Call
- Discussion
- The Chair will entertain a motion for **PASSAGE** of **SB 215** as **AMENDED** by **SSA** 2 moved by Senator \_\_\_\_\_, seconded by Senator \_\_\_\_\_.
- Roll Call
- Announce the vote and hold the roll open (if members are absent)

Introduction

4-?

groth, Zien

IV. Adjourn Executive Session

Vote to expunge by unanimous consent  
 Vote on 215 as amended

Roess, Taylor 5-0

reconsideration

**Wisconsin Senate Roll Call  
2005-2006 SESSION****SB 215  
REFER TO COMMITTEE****AYES - 19**BRESKE  
DECKER  
ELLIS —  
ERPENBACH  
FITZGERALD —  
HANSEN  
HARSDORF —JAUCH  
KAPANKE  
LASSA  
LEIBHAM —  
MILLER  
OLSEN —  
PLALERISSER  
ROBSON  
STAPP —  
TAYLOR  
WIRCH**NAYS - 13**BROWN  
CARPENTER  
COWLES  
DARLING  
GROTHMANKANAVAS  
KEDZIE  
LASEE  
LAZICH  
REYNOLDSROESSLER  
SCHULTZ  
ZIEN**NOT VOTING - 1**

COGGS

SEQUENCE NO. 664  
Thursday, May 04, 2006  
4:51 PM



LYONS OIL CO INC  
 Fuel Price Notification  
 05/28/05

From: LYONS OIL CO INC  
 622 GENESEE  
 DELAFIELD WI 53018

To: 40180003 BORDERLINE BP  
 RON COUNSELL  
 N549 BOULDER ROAD  
 WATE 53098

Vendor	Term	Product	Price	Freight	Price w/ Freight	Taxes	Price w/ Taxes
BP PRODUCTS	NOR 1002	#1 DIESEL LOW	1.856444	.019674	1.876118	.573000	2.249118
BP PRODUCTS	NOR 1001	#1 DIESEL LOW	1.886444	.020888	1.707432	.573000	2.280432
BP PRODUCTS	NOR 1001	#2 DIESEL LOW	1.586444	.020888	1.607432	.573000	2.180432
BP PRODUCTS	NOR 1002	#2 DIESEL LOW	1.593444	.019674	1.613118	.573000	2.186118
BP PRODUCTS	NOR 1002	87 CONVENTIONA	1.521444	.017119	1.538563	.513000	2.051563
BP PRODUCTS	NOR 1001	87 CONVENTIONA	1.538444	.018253	1.554697	.513000	2.067697
BP PRODUCTS	NOR 1001	87 REFORMULATE	1.808444	.018253	1.826697	.462000	2.088697
BP PRODUCTS	NOR 1002	89 CONVENTIONA	1.580444	.017119	1.597563	.513000	2.110563
BP PRODUCTS	NOR 1001	89 CONVENTIONA	1.585444	.018253	1.613697	.513000	2.126697
BP PRODUCTS	NOR 1001	89 REFORMULATE	1.867444	.018253	1.885697	.462000	2.147697
BP PRODUCTS	NOR 1002	93 CONVENTIONA	1.651444	.017119	1.668563	.513000	2.181563
BP PRODUCTS	NOR 1001	93 CONVENTIONA	1.688444	.018253	1.684697	.513000	2.197697
BP PRODUCTS	NOR 1001	93 REFORMULATE	1.738444	.018253	1.756697	.462000	2.218697

*Price to Consumer:*

Blue 87° 2.169

Silver 89° 2.259

GOLD 93° 2.349

Diesel 2.209

*Bought*

6701 gallons Blue

1701 gallons Diesel fuel

out of Milwaukee.

5% paid \$ 2.067697 for Blue

2% paid \$ 2.180432 for diesel

Sell 14534.46  
 cost 13855.63

3757.50  
 3708.91

8291.96  
 17564.54

4% \$ 727.42





121 S. Pinckney St., Suite 300  
Madison, Wisconsin 53703  
Phone (608) 256-7555  
Toll-Free (888) 856-7555  
Fax (608) 256-7666  
[www.wpmca.org](http://www.wpmca.org)

May 31, 2005

Representative Scott Jensen  
Room 321 East  
State Capitol  
P.O. Box 8952  
Madison, WI 53708

Dear Representative Jensen,

On behalf of the Wisconsin Petroleum Marketers and Convenience Store Association (WPMCA) Board of Directors and over 2000 independent petroleum marketers, convenience store operators and related independent businesses, we appreciate the opportunity to provide you with our recommendations regarding the future of the petroleum environmental cleanup fund award (PECFA) program.

The PECFA program is one of the most successful public-private partnerships in state history. You have been presented with several options for changing the PECFA program. We believe in light of declining claims and the state's fiscal condition, some of the recommendations are reasonable. Based on the projected revenue in excess of anticipated claims, it would seem prudent to adopt a provision to decrease the petroleum inspection fee by 1 cent: from 3 cents to 2 cents per gallon.

Regarding changes with the program as it winds down, it appears reasonable to establish a deadline no sooner than January 1, 2007, for requiring owner operators to notify the Department of Commerce of initial petroleum discharges. In addition, you could direct the Department of Commerce to develop administrative rules establishing claim submittal and site closure deadlines. We also believe it is not prudent to delete existing revenue obligation bonding authority. We note the Department of Commerce has not completed its study of remaining eligible tanks.

Regarding ongoing environmental protection, Wisconsin is one of three states that do not provide ongoing reimbursement for environmental contamination. We also note Wisconsin cleanup costs are higher than other states because of our cleanup standards.

WPMCA members now purchase what amounts to catastrophic tank insurance coverage. We are concerned these state-of-the-art petroleum storage and distribution systems and sites that are subject to years of standard use, will be found to have contamination that will not be covered by this insurance mandated by the state.

A petroleum storage tank mutual insurance company patterned after Iowa's successful program would offer county, municipal, and commercial petroleum storage tank owners the insurance they need to provide for the adequate cleanup of any potential contamination.

Such a program may have enhanced standards for regulatory compliance to help reduce the potential remediation costs of environmental cleanups or third party liability claims. With a private, petroleum storage tank mutual insurance program in place, the state will not find itself in a position of becoming the insurer of last resort as it did when the PECFA program was developed in the late 1980's.

Regarding the other state programs funded by the petroleum inspection fee, it was noted recently that the states' inspectors were short of diagnostic field equipment for the field testing of octane and other fuel quality specifications. It seem advisable to review and assure that the Department of Commerce has adequate funding for these testing devices and the Department of Agriculture, Trade and Consumer Protection has additional funds for "provers" or testing measuring devices at the terminal level and at the retail level.

WPMCA also believes it is in the consumers' best interest to ensure a fair and robustly competitive marketplace by continuing to provide funding for the Department of Agriculture, Trade and Consumer Protection activities related to the enforcement of Wisconsin's Unfair Sales Act.

We respectfully ask you to consider these suggestions as you review the PECFA program. Again, thank you for taking the time to consider our thoughts. Should you have any questions, please do not hesitate to contact me at (608) 256-7555 or by email: [bartlett@wpmca.org](mailto:bartlett@wpmca.org).

Sincerely,

A handwritten signature in black ink that reads "Bob Bartlett". The signature is written in a cursive, slightly slanted style.

Robert J. Bartlett  
President

RJB/mch





Bubba Mc Donald  
Bubba's Place  
Manitowoc, WI 54220

May 31, 2005

To Whom It May Concern;

The Manitowoc County Snowmobile Alliance is asking for you to appeal Senate Bill 215. The Manitowoc County Snowmobile Alliance has nine clubs in Manitowoc County with approximately 2,500 members. Many of our contributing businesses would be affected by this bill. These business owners donate to our club fundraising efforts promoting safe and responsible snowmobiling in and around our county.

The Manitowoc County Snowmobile Alliance consists of these nine snowmobile clubs; Cleveland Sno Hawks, Collins Paradise SnoRiders, Denmark Norsemen, Inland Snowblazers, Kettle Range Snow Riders, Lakeshore Club, Louis Corners Sno-Birds, Newton Sno-Sports and Viking Snow Riders.

We appreciate you taking time out of your busy day to help support our valuable local businesses.

Sincerely,

Kris Woelfel,

Manitowoc County Snowmobile Alliance Secretary



**DAN FISCHER, COUNTY EXECUTIVE**  
**COUNTY OF MANITOWOC**

1110 SOUTH NINTH STREET  
MANITOWOC, WI 54220

Lauren Reed, Assistant County Executive

Telephone: 920/683-4375

Fax: 920/683-4499

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June 1, 2005

Members of the Senate Judiciary, Corrections, and Privacy Committee

Dear Committee Member:

Obviously, everyone would like to pay lower prices at the gas pump. The important question is whether there is an approach that would result in a long-term, positive impact on gas prices. I urge you to move cautiously when you consider Senate Bill 215: Is this truly the answer to high fuel prices?

Senate Bill 215 would change how we regulate the minimum price of motor vehicle fuel. The 1999 Skidmore/Peltier study shows that repealing the minimum markup for motor vehicle fuel sales would indeed lower the price in the short term. However, it also showed that the long-term effect would be higher fuel prices with fewer locally-owned businesses. It would be a very disappointing situation if our family-owned gas stations are pushed out of business leaving only large companies to control the price of gasoline.

Our locally-owned fuel stations have made wonderful contributions to the community. They have actively participated in the PGA tournament, Legion baseball, youth football, snowmobile clubs, and many other activities. They are an important part of making our county a great place to live and work. It would be a great loss to Manitowoc County and counties all across the State of Wisconsin to force these families out of business, only to find that gas prices had risen above pre-minimum mark-up levels.

I understand you have a difficult job. I urge you to move slowly, investigate completely, and consider the long-term impacts that will be brought about by passage of this bill. Good luck in your deliberations.

Friendly regards,

Dan Fischer

THANK YOU SENATOR ZEIN AND MEMBERS OF THE COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY. I AM HERE IN OPPOSITION TO SENATE BILL 215. I UNDERSTAND YOU WILL HEAR COMMENTS TODAY AND DURING THE DEBATE ON THIS ISSUE. WORDS LIKE INEFFECINTCENY AND LOWER FUEL PRICES WILL BE THROWN AROUND LIKE YESTERDAY'S PICNIC BASKET, BUT I FEEL COMPELLED TO REMIND THIS BODY THAT THE LAW WE HAVE COME TO KNOW AS THE FAIR MARK-UP LAW IS IN FACT THE UNFAIR SALES ACT, A LAW PUT ON THE BOOKS TO PROTECT WISCONSIN INDENPDENT RETAILS AND BAR OWNERS FROM THE RAVENOUS EFFECTS OF PREDATORY PRICING.

WE HAVE BUT TO LOOK TO OUR WEST AND SEE THE DEVASTATING EFFECTS OF THE REPEAL OF MINN. UNFAIR SALES ACT, WHEN IN JUST 7 MONTHS FROM THE DATE OF THE REPPEAL, THE STATE RESPONDED WITH A STRONGER, TOUGHER LAW DUE TO THE HUNDREDS OF GAS STATION THAT WENT OUT OF BUSINESS IN JUST A FEW MONTHS AS A RESULT OF THE PREDITORY PRICING INTRODUCED BY MURPHY OIL. DID THE FULE PRICES GO DOWN? YES THEY DID, BUT THIS POINT HAS NEVER BEEN ARGUED, IN FACT THE SKIDMORE/PELTIER STUDY OF 1999 PROVES THAT IN THE 12 MONTHS FOLLOWING THE REPEAL OF UNFAIR SALES LAWS LOWER FUEL COSTS IN FACT BELOW COST WERE THE RESULT. IT'S THE FOLLOWING 12 MONTHS AND BEYOND THAT RESULT IN HIGHER PRICES COMPARED TO THE DAYS OF PREDITORY PRICING LAWS BEING IN PLACE.



I KNOW THAT MOST MEMBERS OF THIS BODY HAVE READ THE REPORT OR AT LEAST COPIES WERE SENT, BUT I FIND IT AMAZING THAT THE AUTHORS OF THIS STUDY HAVE NEVER BEEN CALLED TO GIVE EXPERT TESTOMONY AND WOULD INCOURGE THIS COMMITTEE TO DO SO.

ANOTHER ASPECT OF THIS LAW THAT WE FAIL TO REMEMBER IS THAT THE INDEPENDENTS ARE THE ONE'S THAT WILL BE PUT OUT OF BUSINESS IN THE NAME OF INEFFECINTCEY YET, IT IS THE INDENPENDENTS THAT CONTRIBUTE MOST TO THE COMMUNITIES THAT THEY LIVE IN, THEIR PORFITS STAY IN THEIR HOME TOWNS, NOT SO WITH THE WAL-MARTS AND MURPHY OILS OF WISCONSIN. NOT TO IMPLY THAT THEY DON'T GIVE LOCALLY BUT NOT AT THE LEVELS THE LOCALLY OWNED INDEPENDENTS DO, THAT IS JUST AN ECONOMIC FACT, FOR AND EXAMPLE THE LAST RECORDS I HAVE ARE FROM 2002 WHERE WAL-MART CONTRIBUTED \$75,000 TO LOCAL CHARIES WHILE MOST COMENDABLE I MUST STATE THAT MY COMPANY OF THAT TIME GAVE \$72,000 AND MY SALES WERE ONLY A FRACTION OF THEIRS.

IF THERE IS INEFFECENTCY IN THIS EQUATION IT IS ON THE PART OF LARGE RETAILERS WITH HIGHER OVERHEADS THAT PREVENT THEM FROM PARTICIPATING IN LOCAL CHARITY EVENTS.

HONORABLE LADIES AND GENTELMAN, I PLEAD NOW THAT YOU ALLOW MY DREAM, AND THE DREAM OF MY EMPLOYEES TO CONTINUE.

WISCONSIN IS MY ADOPTED HOME, INITIALLY BECAUSE OF THE BEAUTY AND GREAT PEOPLE, BUT AFTER A FEW MONTHS LIVING HERE IT BECAME A REALITY THAT I, LITTLE OL BUBBA FROM TEXAS COULD START A BUSINESS AND BECOME SUCCESSFUL BECAUSE THE UNFAIR SALES ACT ALLOWED ME TO. REMOVING THAT LAW EVEN FOR A TEST THAT IS NOT TEST AT ALL BUT A BACK DOOR TO PREDATORY PRICING SCHEMES WOULD PUT ME OUT OF BUSINESS, AND IF MY SOME MIRICALE I SURVIVE THE PRICE WAR, AND THERE WILL BE A PRICE WAR, THE LOCAL COMMUNITY WILL NOT HAVE THE SPONSORS FOR THE WALK FOR LIFE, THE MARINER TRAIL WALK, THE SNOW MOBILE FUND RAISING MUSIC STAND AT THE COUNTY FAIR, THE HEART A RAMA, AND THE LIST GOES ON, BETWEEN US IN MANITOWOC COUNTY WE CONTRIBUTE MORE THAN \$250,000.00 ANNUALLY.

THE PROPONENTS OF THIS LAW WANT GASOLINE TO BE A LOSS LEADER ITEM, BUT OUR FOREFATHERS SAW THE NEED TO KEEP THE LARGE OIL COMPANIES FROM GAINING CONTROL OF THEIR ENERGY DISTRIBUTION, I IMPLORE THIS BODY TO HONOR THAT DREAM AND PROTECT THE 3100 INDEPENDENT STATION OWNERS IN OUR STATE, BY SIMPLY KEEPING THE LAW IN PLACE AND DUE TO TIME I WILL CONCLUDE AT THIS TIME THAT

EBY BROWN COMPANY V WISCONSIN SHOWS THAT THE UNFAIR SALES ACT PROTECTS AND ENHANCES COMPETITION.

(IF ALLOWED TO CONTINUE TO SPEAK)

ANOTHER ASPECT OF THIS LAW IS THE ABILITY TO PASS ON A VIABLE BUSINESS FROM ONE FAMILY MEMBER TO ANOTHER OR IN MY CASE TO MY MANAGERS WHEN I RETIRE. I HAVE THE ABILITY TO MICRO MANGE MY BUSINESS TO MY CUSTOMER BASE, UNLIKE LARGE BOX STORES, I CAN INVEST IN THE FUTURE, AND GO WHERE THE GROWHT IS COMING, BY PURCHASING A FEW ACRES OF LAND, AS I DID WITH MY LAST VENTURE, LARGER BOX STORES CAN'T JUST PICK UP AND MOVE AND GENERALLY DON'T THEY CLOSE, MANITOWOC'S OLDEST GAS STATION WAS BUILT IN 1928, AND HAS BEEN REMODELED A TIME OF TWO BUT IT IS STILL THERE, YET THE OLDEST BOX STORE IS ONLY 32 YEARS OLD AND MANY ARE NOT SURE IF IT WILL SURVIVE....WE OFFER STABILITY TO THE TAX ROLLS, YES THE REVENUE OF OUR CITIES, WE OFFER STABILITY TOO. WHAT HAPPENS IF WALL-MART LEAVES, THEY ABONDON THE PROPERTY AND NEVER PAY TAXES AGAIN AS WAS THE CASE OF THE NEWEL RUBERMAID PLANTS IN MANITOWOC WHEN MIRROR PULLED OUT....WHERE IS THE STABILITY FOR A COMPANY THAT HAS IT'S HEART SET ON PROFIT NOT THE WELL BEING OF MANITOWOC OR WISCONSIN FOR THAT MATER? FRANKLY CORPORATE AMERICAN CARES ABOUT SHARE HOLDERS REGARDLESS OF WHAT IT TAKES TO MAKE A PROFIT, I ON THE OTHER HAND ALONG WITH

THE OTHER 3100 INDEPENDENTS IN WISCONSIN CARE ABOUT OUR  
COMMUNITY, OUR CUSTOMERS OUR EMPLOYEES AND IN THAT ORDER.  
NOTICE PROFIT IS NOT THE TOP THREE PRIORITIES, DON'T GET ME WRONG  
WE TOO WISH TO BE PROFITABLE BUT AGAIN WE HAVE LOWER  
OVERHEADS AND OUR FOCUS IS ON THOSE WE SERVE FIRST.

ANY QUESTIONS?

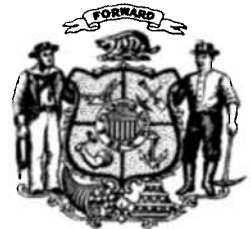
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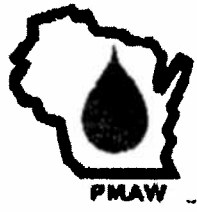
RICHARD "BUBBA" McDONALD

OWNER, Bubba's Place MANITOWC



# WISCONSIN STATE LEGISLATURE





**URGENT!  
ACTION REQUESTED!  
PLEASE CALL ON TUESDAY, MAY 31<sup>ST</sup>!**

Senator Zien and Representative Wood have introduced their Senate Bill 215 to repeal the minimum markup provisions of Wisconsin's Unfair Sales Act. This is the bill that the Wal-Mart/Murphy Oil led *Coalition for Lower Gas Prices* wants to pass more than anything in the world.

This bill will have a Senate hearing, before the Committee on Judiciary, Corrections and Privacy, this coming *Wednesday, June 7, 2005*. Unfortunately, the announcement of this bill was made just before Memorial Day weekend. While you're all busy during this heavy-travel weekend, the lobbyists for the other side are busy working the legislature. But we can overcome this obstacle - the legislature is closed on Monday, back on Tuesday when all our calls can make the most impact!

Please, if you care about this law, if you **DO NOT WANT TO SEE THE UNFAIR SALES ACT REPEALED OR CHANGED IN ANY WAY**, make 5 simple phone calls. These calls will go to the 5 Senators on the Committee and demonstrate the strong support our industry has for this important existing law. If **EVERYONE** calls before the hearing, we have a good chance of killing this bill.

**MOST IMPORTANT**, if you are an independent company, otherwise known as a family-owned, or small-business, or "mom & pop," it is crucial that you make these calls as soon as possible. The reason is because one of Wal-Mart's arguments is that there are no more independent retailers left in Wisconsin. They've said that independents are a quaint, antique notion that went out of business with your Grandfather's Oldsmobile. Therefore the Coalition for Lower Gas Prices argues that we no longer need an "antique law" like the Unfair Sales Act. They want it repealed so that the hypermarkets and big box retailers can sell gas as a loss leader without penalty. Supporters of the bill say they've added additional prohibitions against loss leaders - **DON'T BELIEVE IT! Make a mistake: If Senate Bill 215 becomes law, there will be no more minimum markup and no strong prohibitions against using gas as a loss leader.**

For talking points to make to these legislators, arguing why Wisconsin's Unfair Sales Act should NOT be changed, please see the attached sheet. And please call these 5 Senator's on Tuesday.

- Senate Committee on Judiciary, Corrections and Privacy**  
 Senator David Zien (R-Eau Claire) 608-266-7511 -  
 Senator Carol Rossier (R-Oshkosh) 608-266-5300  
 Senator Glenn Grothman (R-West Bend) 608-266-7513  
 Senator Fred Rissar (D-Madison) 608-266-1627  
 Senator Lena Taylor (D-Milwaukee) 608-266-5810

**PETROLEUM MARKETERS ASSOCIATION OF WISCONSIN | WISCONSIN ASSOCIATION OF CONVENIENCE STORES**

Representing Independent Business  
 151 S. DUNCANNEY STREET • SUITE 303 • MADISON, WISCONSIN 53703-3288 • (608) 266-7566 • FAX: (608) 266-7886 • WWW.DTHAWACS.ORG

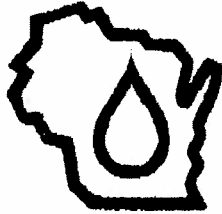
*C.S. Jones*

*Etherton*

*No legal  
Revenue  
just allow*

*AAA  
More than  
Nette Ellen  
Wm Conrath  
Shardub  
Consumer  
Wal-Mart*

*Dr. Crane - Expert, Be circled  
up front*



PMAW



WACS

# URGENT! ACTION REQUESTED! PLEASE CALL ON TUESDAY, MAY 31<sup>ST</sup>!

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PETROLEUM MARKETERS  
ASSOCIATION OF WISCONSIN

WISCONSIN ASSOCIATION  
OF CONVENIENCE STORES

Representing Independent Business

121 S. PINKNEY STREET • SUITE 300 • MADISON, WISCONSIN 53703-3336 • (800) 256-7555 • FAX (609) 256-7666 • www.pma-wis.org

pleas  
Do NOT  
ALLOW  
TO HAPPEN  
IT WILL  
THE END  
SMALL  
INDUS  
OF WHICH  
I AM ONE

Brion's Crossroads Cafe & Hangar  
101 North 1st St.  
Box 319  
Cameron, WI 54622

Shy Brion  
Lester

=== COVER PAGE ===

TO: \_\_\_\_\_

FAX: 16082676794

FROM: BERLIN OIL

FAX: 920-361-3918

TEL: 920-361-4060

COMMENT:



## Top 10 Reasons Why the Unfair Sales Act Must Be Preserved

**1 It's called the Unfair Sales Act for good reason:** Opponents of the law will try to convince you that it's the "minimum markup law," but it's not. It's the Unfair Sales Act and it's designed to stop a specific kind of unfair sales: predatory pricing.

**2 Predatory pricing is alive and well:** This is especially true in the retail gasoline industry. Just look at the court case in Florida from a couple years ago, where a judge ruled that Murphy Oil and Wal-Mart were "destroying" small competitors by selling below cost. Or look to the state of New York, which recently enacted a new unfair sales law.

**3 Mega-retailers are poised to exert their considerable power:** Today's predatory pricing typically happens when a mega-retailer enters a market, then dramatically undercuts prices - making profits in its other stores or on other products or even in other states - until it has driven smaller competitors out of business and captured the market. With competition gone, the mega-retailer is free to charge whatever price it wishes for its products.

**4 We need to save our family-owned, independent businesses:** Opponents of the Unfair Sales Act say that "mom and pop" businesses don't exist anymore. The 25,000 small business owners we represent know they are wrong. For example, in the retail gas industry in Wisconsin, the vast majority of outlets are smaller, family-run operations.



**5 The law does not guarantee a profit:** It simply requires that gas retailers set at a reasonable level in an attempt to recover a portion of their costs of bringing products to the consumer. The law allows any retailer, at any

time, to drop their price to meet a competitor's price.

**6 It is vital to our farm economy:** Probably more than any other profession, farmers understand the importance of having an active, diverse market for gasoline. They understand, for example, that mega-retailers are not able to provide the in-field services that co-ops and independent dealers are able to provide.



**7 Gasoline should not be a "loss leader":** It makes no sense for gasoline, a finite strategic resource, to be used as a market's "loss leader," the product being sold below cost.

**8 The Washington bureaucrats won't help us:** Opponents of the law say it is not necessary because retailers are already protected by federal anti-trust law. Many years ago, Wisconsin and other states put below-cost ceiling laws on the books because they knew small business owners cannot afford to enter costly litigation against some of the world's largest corporations. Simply put, federal anti-trust laws are inaccessible to small businesses.

**9 Gasoline-specific laws protect and enhance competition:** In the case of Eby Brown Company v. Wisconsin, the Wisconsin Attorney General's office presented expert testimony concluding that: "Gasoline-specific SBC (selling below cost) laws serve to protect and enhance competition."

**10 Wisconsin needs more, not less, competition:** Keeping the law means more competitors in the market, which means more competition. And more fair competition results in long-term lower prices and more choices for consumers.

For more information, please contact Matt Hauser at (608) 256-7555 or [mhauser@pmawwacs.org](mailto:mhauser@pmawwacs.org).

*Mike Trip*

*WRONG*



### Wisconsin's Unfair Sales Act Protects Our Way of Life

Main street businesses are the backbone of Wisconsin's economy. They are an essential part of the high quality of life that all Wisconsinites have come to expect.

As owners of main street businesses, we're committed to our communities because we're part of our communities. We live and work here, and we provide the goods and services that people need to be successful.

*We can compete with anyone as long as everyone plays fair. Unfortunately, not all big companies play fair.* When given the opportunity, some will sell certain products below cost for a short period of time in order to drive main street businesses out of the marketplace. It's called "predatory pricing."

Predatory pricing was real back in 1939, when Wisconsin first created the Unfair Sales Act, to deal with the big oil company chiefs who were trying to control our markets. And it's real today, when very large, diversified companies can easily take a loss on certain products in order to gain control over markets.

Unfortunately, *the big-money corporations that don't like Wisconsin's Unfair Sales Act just won't give up on trying to kill this important law.* They recently began a new offensive. They have a new study which they say supports the argument that the law should be repealed.

They even managed to get some Washington bureaucrats to say the law *might* lead to higher prices for consumers. Now they are taking their arguments to state legislators and the general public, saying they are "victims" of the law.

In order to preserve fair competition and active markets, we need to fight to preserve the Unfair Sales Act. It is very important for the future of our great state.

---

**Petroleum Marketers Association of Wisconsin/Wisconsin Association of Convenience Stores (PMAW/WACS) • Wisconsin Grocers Association • Wisconsin Federation of Cooperatives • National Federation of Independent Businesses • Tavern League of Wisconsin • Wisconsin Auto and Truck Dealers Association • Wisconsin Automotive Aftermarket Association • Midwest Equipment Dealers Association • Wisconsin Farm Bureau Federation • Wisconsin Agribusiness Council • Wisconsin Innkeepers Association • Wisconsin Retail Lumber Association • Wisconsin Farmers Union • Outdoor Advertising Association of Wisconsin • Wisconsin Beer Distributors Association Inc.**

05/31/2005 11:21:08 AM

Evers, Jenny

U S Oil Co Inc

Page 1

THIS IS VERY IMPORTANT

IF YOU DO NOT WANT TO SEE THE UNFAIR SALES ACT CHANGED IN ANY WAY - YOU MUST ACT IMMEDIATELY

WE ALL NEED TO WORK TOGETHER TO KEEP THIS ACT WORKING FOR US

CALL ALL 5 SENATORS ON THE COMMITTEE PLUS YOUR LOCAL SENATOR TODAY

THIS IS VERY IMPORTANT

THANK YOU  
SHERRY BEVES  
U.S. OIL CO INC



93759.56

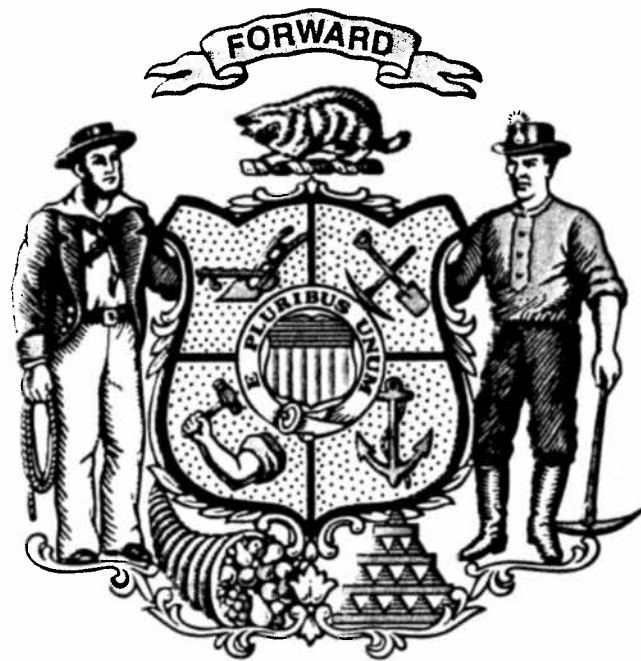
06/01/05

Borderline Amoco  
Income Statement - Inaccurate  
Period Spread Sheet  
5 Period(s) Ending May 31, 2005

	Total	01/31/05
Income from Operations		
Sales of Gasoline	1,370,848.57	254,717.50
Sales of Merchandise	522,713.05	100,105.80
Sales of Lottery	116,720.13	22,726.10
Sales Other Income	4,259.00	867.00
	-----	-----
Total Income from Operations	2,014,540.75	378,416.40
Cost of Goods Sold		
Cost of Merchandise Sold	391,235.03	70,764.01
Cost of Gasoline Sold	1,277,089.01	228,664.05
Cost of Lottery Sold	107,567.74	21,786.81
	-----	-----
Total Cost of Goods Sold	1,775,891.78	321,214.87
Gross Profit (Loss)	238,648.97	57,201.53
Operating Expenses		
Advertising Expense	13,328.99	130.00
Automotive	3,681.03	664.20
Bad Debt Expense	(16.86)	(322.73)
Bank Service Charges	762.26	136.09
Donations	683.00	100.00
Dues and Subscriptions	719.00	0.00
Heat & Electricity	9,891.38	2,111.22
Insurance - Auto	303.00	0.00
Insurance - Building & Contents	2,119.00	0.00
Insurance - Employee H/L	17,672.72	2,766.57
Insurance - Worker's Comp.	515.00	0.00
Licenses	532.15	0.00
Maintenance & Repairs	10,049.60	81.34
Miscellaneous Expense	982.94	0.00
Office Expense	1,110.37	636.87
Payroll Tax Expense - Social Securi	4,964.56	898.44
Payroll Tax Expense - Medicare	1,161.02	210.11
Payroll Tax Expense - FUTA	5.49	1.16
Payroll Tax Expense - SUTA	16.64	3.06
Postage	375.85	111.00
Professional Fees - Legal	245.37	0.00
Professional Fees - Other	275.00	0.00
Promotion & Entertainment	1,538.80	0.00
Rent	32,500.00	6,500.00
Supplies - Shop	1,216.17	0.00
Telephone	1,995.45	549.54
Wage Expense	80,073.33	14,490.99
	-----	-----
Total Operating Expenses	186,701.26	29,067.86
Operating Income (Loss)	51,947.71	28,133.67

6%

*Health Care*



Statement for Dr. David Clark – 6/1/05

My colleague, Dr. Steven Crane and I were approached by the Coalition for Lower Gas Prices in the spring of 2003 to evaluate and analyze the role of the Wisconsin Unfair Sales Act (Wisconsin Statute #100.30) on the retail gasoline market. The statute requires a minimum markup of 9.18% on the invoice cost of gasoline (rack price) from the nearest terminal. Among the justifications that have been provided in support of minimum markup laws are that they:

- Are necessary to prevent predatory pricing practices in the retail gasoline market
- Protect small retailers who maintain a “fair price” in the market
- Protect consumers from monopoly power

Thus, an important question is, “What are the effects on the retail gasoline market of Sales Below Cost (SBC) laws like Wisconsin’s law?” Do they raise or lower retail gasoline prices and retail margins? Do they provide any protection to “the little guy”? To answer these questions, Dr. Crane and I conducted two studies in the summer and fall of 2003.

The first study examined the average influence of SBC laws on both real (inflation adjusted) gasoline prices as well as real retail margins in the lower 48 states. States were classified according to whether they had SBC laws on their books over the period 1994 – 2001. States with these laws were further distinguished according to whether they had laws that targeted gasoline and/or had specific minimum markup requirements.

There are many factors that can potentially influence the retail price of gasoline, as well as the retail gasoline margin. For example:

- Federal taxes on gasoline vary over time, and state taxes vary across states and over time.
- The cost of doing business (wages, land prices) also varies.
- The legal and regulatory environments differ across states. For example, some states prohibit self-service, whereas others require the use of oxygenated or reformulated gasoline during different times of the year. Still other states prohibit vertical integration in the supply chain.
- Finally, some states have SBC laws and others do not.

In order to isolate the impact of these laws, it is important to account for these other influences as well. To do this, we employed a multivariate statistical approach known as multiple regression analysis. This statistical methodology allows the researcher to evaluate the separate and independent influence of SBC laws on the retail gasoline market, after having accounted for these other important influences.

So what were our findings on the average influence of SBC laws on retail gasoline prices? We find that after accounting for other influences,

- Gasoline-Specific SBC laws raise the price of gasoline 1.5¢/gallon and the influence is statistically significant.

- Gasoline-Specific SBC laws with minimum markup provisions raise the price of gasoline 1.8¢/gallon, and again, the influence is statistically significant.

Our findings on the average influence of SBC laws on the retail margin (i.e., retail gasoline price minus the wholesale gasoline price) are similar. Again, after accounting for the other influences,

- Gasoline-Specific SBC laws raise the retail margin of gasoline 1.3¢/gallon and the influence is statistically significant.
- Gasoline-Specific SBC laws with minimum markup provisions raise the retail margin 1.8¢/gallon, and the influence is statistically significant.

Given that Wisconsin does have the minimum markup provision, the 1.8¢/gallon estimate on the inflation-adjusted retail price is an estimate of the impact of the Wisconsin law. It is important to emphasize that these are average impacts for all states that have these statutes. Given that Wisconsin is one of the more aggressive states in enforcement of its statutes, we believe that 1.8¢/gallon is a conservative estimate of the impact of this law on retail gasoline prices and margins.

These findings are also consistent with the weight of evidence that exists in the literature, that show SBC laws typically raise retail gasoline prices in the range of 0.6¢/gallon – 2.7¢/gallon. Indeed, the only study of which we are aware, that finds that retail gasoline prices are lower as a result of SBC laws, was the one conducted by Professors Skidmore, Peltier and Alm. Interestingly, they actually verify our findings when they apply their statistical model to the time period that we analyze. It appears, and they acknowledge in their published study, that their findings depend critically on their use of data going back to 1983. We believe that the retail gasoline market today is structurally different from the market in the 1980's, and hence use of the earlier data is inappropriate for the purposes of evaluating the current impact of these laws.

So, our findings indicate that these laws do raise the retail price of gasoline in the market, providing some degree of assistance to retailers large and small, but at the expense of consumers. The question then becomes, "To what extent are retailers helped, and consumers hurt by this law?" The second study was aimed at answering this question. To ascertain the answer to this question, we needed to know how much of gasoline was being sold, and how much was being sold by small, medium and large retailers.

While we did not have access to the data of individual retailers, the Wisconsin Department of Commerce does maintain a database of gasoline storage tank capacity for all retail gasoline establishments for regulatory purposes, that is publicly available. To translate tank capacity to annual gallons of gasoline sold, we needed to determine:

- How far down storage tanks are drawn down before they are refilled.
- How frequently they are refilled.

We assumed that tanks were drawn down to 15% of their capacity before being refilled, and surveys conducted by Wood Communication Group determined that there were on average 3.4 fills per month, or 41 fills per year. We then compared the predicted volume of unleaded



gasoline sold in the state, using these assumptions, to the total volume reported by the U.S. Department of Energy. We found that our estimates were within about ½ % of the DOE estimates and hence we conclude that our assumptions are reasonable.

So what do we find with regard to the size distribution of service stations in the state? From a 2003 query of the WI Department of Commerce database, we find that the typical station (defined as the station that is at the 50<sup>th</sup> percentile of all stations) is actually not very small. Specifically, it:

- Has 20,000 gallons of capacity
- Sells about 697,000 gallons of gasoline per year
- Generates gross revenues of \$1.2 million from gasoline (assuming \$1.65/gallon)
- Generates \$823,000 dollars of revenue net of excise taxes.

The 25<sup>th</sup> percentile station has 15,000 gallons of capacity, which translates into 523,000 gallons of gasoline sold annually, and revenues net of excise taxes of \$617,000 from gasoline alone.

A conservative estimate of the truly small producer would be 10,000 gallons of capacity and lower. These retailers make up only 18% of all stations statewide, and only 2.8% of the statewide tank capacity. Thus, there are not many small producers remaining in the state, and they do not pump much of the state's gasoline.

Given this distribution of sales volume, the subsidy of 1.8¢/gallon to retailers from consumers amounts to an annual expense of \$45.5 million to Wisconsin consumers. Since the subsidy is distributed on a per/gallon basis, most of the subsidy goes to medium and large-sized retailers. Specifically:

- The average subsidy for the truly small stations would be about \$2000 per year, which is only 2.8% of the subsidy (\$1.3million/year).
- The average subsidy for the typical station (50<sup>th</sup> percentile) is \$12,500 per year.
- The average subsidy for the largest stations (30,000 gallons of tank capacity and higher) is \$16,000 - \$23,000 per year.

While the law may provide some minimal assistance to truly small producers, the vast majority of the transfer from consumers to retailers goes to medium and large retailers. If the goal of the law is to "help the little guy" this could be done at a fraction of the current cost. Indeed, we could directly compensate all of those in the lower 25<sup>th</sup> percentile of retailers for \$3.4 million/year, and save the state's consumers \$42 million each year.

In conclusion, Wisconsin's Unfair Sales Act, in my opinion is poor public policy that directs the vast majority of its benefits to medium and large retailers, at the expense of consumers. As a result of our research, I believe that this law should be repealed. Thank you.





121 S. Pinckney St., Suite 300  
Madison, Wisconsin 53703  
Phone (608) 256-7555  
Toll-Free (888) 856-7555  
Fax (608) 256-7666  
[www.wpmca.org](http://www.wpmca.org)

**DATE: JUNE 1, 2005**  
**TO: MEMBERS OF THE SENATE COMMITTEE ON JUDICIARY,  
CORRECTIONS AND PRIVACY**  
**FROM: MATT HAUSER, DIRECTOR OF GOVERNMENT AFFAIRS**  
**RE: OPPOSE SB 215**

On behalf of the Wisconsin Petroleum Marketers and Convenience Store Association and members, I respectfully request that you **oppose SB 215** relating to repealing important provisions of Wisconsin's Unfair Sales Act.

Supporters of the bill continue to rely on flawed studies, which erroneously state the Unfair Sales Act costs consumers money. These studies ignore evidence compiled and published by University of Wisconsin-Whitewater Professors James Peltier and Mark Skidmore that clearly illustrate how **Wisconsin's Unfair Sales Act preserves marketplace competition and saves Wisconsin consumers at least \$28 million a year.**

Wisconsin's Unfair Sales Act does not artificially inflate the retail price of gasoline rather it ensures vigorous competition and consumer choice. It is fair to say we ALL want lower gas prices. But the proposed changes to Wisconsin's Unfair Sales Act will not achieve that goal. **Studies show the proposed changes will lead to higher gasoline prices in Wisconsin.**

Retailers dislike higher gasoline prices as much as their customers, as margins and in-store sales may decrease while costs, theft and customers' concerns increase. The main component of retail gasoline prices is the price of crude oil. Crude oil is traded in the global marketplace and currently prices are above \$50 per barrel - much higher than the traditional \$22 to \$28 "price basket" targeted by OPEC. **Crude oil prices, refining and distribution costs account for nearly two thirds of the retail price of gasoline.**

Federal and State taxes account for the remaining third of the retail price of gasoline. Wisconsin's motor fuel taxes and fees are among the highest in the nation, and automatically increased 8/10 of a cent on April 1, 2005, totaling 32.9 cents per gallon. Wisconsin's motor fuel tax is now 12.8 cents more than Minnesota and 11.4 cents higher than Iowa. **Gasoline tax disparity is the main reason people see higher prices in Wisconsin than in surrounding states.**

Nearly the entire retail price of gasoline is determined before it is received by the retailer. The rest of the cost of getting gasoline into the consumer's tank are the costs of the retail operation such as employees wages, health care, utilities, equipment, taxes, credit card costs, environmental protection measures etc. For example, currently, *Mastercard* is making more in fees per gallon of gasoline sold than many retailers make on the sale of the product.

Since 1939, the Wisconsin State Legislature has recognized it is important to prevent large corporations from controlling the motor fuel market. To prevent predatory pricing and ensure competition, the Legislature wisely responded by requiring all petroleum marketers to charge a mark-up above the terminal price in an attempt to ensure those marketers are covering a portion of their costs of bringing gasoline to the consumer.

The proposed changes do not account for the retail costs of marketing gasoline as described above. Only mega-retailers such as Wal-Mart have the ability to sell gasoline for just a fraction of a cent above the terminal price as they can use profits from the sale of products from around the country or globe to offset this "loss."

Locally-owned, independent convenience store operators do not have this luxury because gasoline sales are a large portion of their business. To keep their customers, independent retailers will be forced to sell gasoline for just a fraction of a cent above the terminal price. Under this scenario, retailers are not covering their costs of bringing gasoline to the consumer.

**If independently owned convenience stores are gone there will be less competition. Studies have shown that more competition equals better price competition.**

Good for consumers. Good for independent businesses. Good for our communities. The Unfair Sales Act is good for Wisconsin. **On behalf of the 2000+ locally owned, independent retail establishments represented by WPMCA, I respectfully urge you to reject attempts to repeal or modify this law.** If you have any questions, or would like copies of any of the studies I have cited regarding Wisconsin's Unfair Sales Act, please contact me at (608) 256-7555.

## THE FACTS YOU SHOULD KNOW ABOUT WISCONSIN'S UNFAIR SALES ACT

- ***The law is good for Wisconsin's Consumers to the tune of over \$28 million annually.*** UW-Whitewater Professors Mark Skidmore and James Peltier and Georgia State University James Alm, in a study released September 2004, [Do State Motor Fuel Sales-Below-Cost Laws Lower Prices?](#), stated that "We find that gasoline prices are about one cent lower five years after the law [Wisconsin's Unfair Sales Act] is imposed. We also find that total number of gasoline outlets is greater in the presence of the law."
- ***The FTC is biased on this issue.*** The Federal Government Accounting Office, (GAO) has determined that the mergers and market concentration of oil companies – all approved by the FTC--has led to an increase in gas prices. This exposes the fact that the FTC is biased on this issue. The United States General Accounting Office issued a report, May 2004, titled [ENERGY MARKETS, Effects of Mergers and Market Concentration in the U.S. Petroleum Industry](#). GAO-04-96. In the executive summary, the GAO stated, "GAO's econometric analyses indicate that mergers and increased market concentration generally led to higher wholesale gasoline prices in the United States from the mid-1990s through 2000. Six of the eight mergers GAO modeled led to price increases, averaging about 1 cent to 2 cents per gallon." Remember, the FTC approved all these mergers! The study can be found at: [www.gao.gov/cgi-bin/getrpt?GAO-04-96](http://www.gao.gov/cgi-bin/getrpt?GAO-04-96).
- ***The Coalition for Lower Gas Prices relies on a disputed study.*** The study used by the Coalition for Lower Gas Prices, also known as the "Clark and Crane Study" was disputed by UW-Whitewater Professors James Peltier and Mark Skidmore, in a paper titled, "The Effects of Sales-Below-Cost and Minimum Markup Laws on Retail Gasoline Prices," September 24, 2004. Key statements of the study include: "The relatively short timeframe (1994-2001) used in the Clark and Crane study prevents an examination of how prices change in states that adopt/repeal sales-below-cost legislation." And, "This report clearly highlights the limitations of the Clark and Crane (2004) study. In particular, the time period of analysis is too short to properly evaluate the effects of sales-below-cost-laws."
- ***Senator Zien and Representative Wood reference a questionable study.*** Sen. Zien and Rep. Wood constantly refer to a study by Professor James Brannon from the University of Wisconsin - Oshkosh. The data used in his analysis covered only a span of six months following the implementation of increased enforcement of Wisconsin's Unfair Sales Act. This limited time frame is used to make inferences about prices now and years into the future. Brannon's limited study also used a non-representative sample of data taken from just two cities that make up less than 6 percent of the state's population. Finally, Brannon's study uses only one control city (Duluth) and thus all conclusions about changing prices in Wisconsin are made relative to Duluth. Why Duluth? Comparing six months worth of price information from two Wisconsin cities (Beloit and Eau Claire) to the price in Duluth is not a valid way to proclaim that all Wisconsin gas prices are higher forevermore.

- ***The Unfair Sales Act has broad Ag support.*** An article in Wisconsin's AGRI-VIEW stated that "Cost conscious consumers – and that includes farmers – know that a temporary 'savings' might mean anything but a savings in the long run." In an article titled *Unfair Sales Act Has Meaning To Wisconsin Farmers*, the AGRILEADER paper stated "One of the first ways farmers might feel the effect of the law being repealed could come when they need gasoline or diesel for their farm machinery. For many years, farmers have relied on local co-ops or independent petroleum dealers for in-field services. It's not unusual for someone like Randy Meffert of Meffert Oil Co. in Waunakee to get a call from a farmer asking that Meffert "send out a truck" to meet and fill his combine in a certain field – and "make it as soon as possible." If the Mefferts are driven out of business, Wal-Mart will not deliver product to farmers' fields.
- ***Proof of predation exists.*** David R. Kamerschen, Ph.D, Distinguished Professor of Economics at the University of Georgia provides proof that ***predation is alive and well*** in today's retail gasoline markets. In his study, *An Economic Analysis of Motor Fuel Fair Marketing Laws*, Kamerschen stated "Economists have increasingly recognized in recent years that the dangers from predation are far greater than thought in the past.... Because of the ability of mass retailers to obtain contemporaneous recoupment, subsidized retail gasoline pricing as a form of predatory conduct is not the theoretical myth some say it is. Rather, [it] poses a very real threat to the long-term viability of the independent sector of the petroleum marketing industry. Fair marketing laws are, in my view, a reasonable method to eliminate that threat for the long-run good of consumers." Professor Kamerschen uses the term "subsidized pricing" to mean selling at a loss in one market, while subsidizing that loss with profits from other markets.
- ***Professor Kamerchen debunks claims that Wisconsin's Unfair Sales Act raises the cost of gasoline.*** "The critics of fair marketing laws have not produced statistically reliable findings that laws which restrict below-cost selling have increased the retail price for gasoline. The studies use incomplete data and the models employed in such studies do not have sufficient demand, supply and regulatory variables. Granted, governmental regulation in the marketplace does not come without some cost. In the case of fair marketing laws, the "cost" comes from eliminating short-term subsidized retail gasoline prices (price wars). Although consumers in some local markets may benefit in the short run because of below-cost prices, normal market forces, free from price subsidization, will preserve a strong, independent marketing sector. This results in more competitors and more vigorous competition in the long run.

Retail gasoline prices have been steadily increasing over the last several weeks. Retailers dislike higher gasoline prices as much as their customers, as margins and in-store sales may decrease while costs, theft and customers' concerns increase. Unfortunately, according to the United States Energy Information Administration (EIA), it appears this nationwide trend is likely to continue into the spring and summer. Although their predictions are not always correct, the EIA reviews worldwide data in developing their analysis.

The main component of retail gasoline prices is the price of crude oil. A number of other factors may impact the price of crude oil or the price consumers pay at the pump for gasoline.

- Increased global demand for oil
- Instability/terrorism in oil-producing countries
- Spring transition to summer blend fuels
- Refining and distribution system constraints
- The continued proliferation of government mandated boutique fuels
- Higher U.S. demand in warmer months
- Declining value of the dollar

Crude oil is traded in the global marketplace and prices currently are near \$50 per barrel - much higher than the traditional \$22 to \$28 "price basket" targeted by OPEC. Crude oil prices account for nearly half the retail price of gasoline, so high crude oil prices are a significant factor leading to higher than historically average retail prices for gasoline. The lower value of the U.S. dollar is another factor in current crude oil prices.

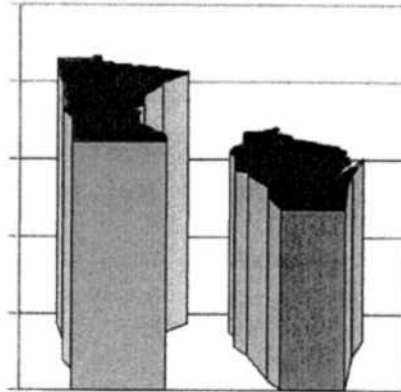
The U.S. refining industry continues to struggle to expand refining capacity. Almost one half of the U.S. refineries have closed in the last 25 years. The current infrastructure is under tremendous demand. An unforeseen glitch in the refinery or pipeline sector can cause supply disruptions and create volatility in the marketplace.

The proliferation of boutique fuel formulations has fragmented what was once the most efficient commodity distribution system in the world. Since 1990, the number of gasoline formulations marketed throughout the nation has increased from approximately six to 20, not counting individual octane grades or other products, like diesel fuel, jet fuel and home heating oil. Each of these products must be kept segregated and delivered to specific markets through a pipeline system designed to handle six products. Furthermore, the individual gasoline specifications are not interchangeable, meaning a supply disruption in one market often cannot be offset by transferring product from a neighboring market. This leads to product shortages and regional price spikes.

Good weather and vacations cause U.S. summer gasoline demand to average about 6 percent higher than during the rest of the year. Supply problems, coupled with strengthening demand, as the summer driving season approaches may cause retail prices to increase.

Gasoline tax disparity is the main reason people see higher prices in Wisconsin than in surrounding states. Wisconsin's motor fuel taxes and fees are among the highest in the nation, and automatically increased 8/10 of a cent on April 1, 2005, totaling 32.9 cents per gallon. Wisconsin's motor fuel tax is 12.8 cents more than Minnesota and 11.6 cents higher than Iowa.

These are just a few of the myriad of factors - global, national and regional - that impact the supply and price of gasoline. For additional information, the United States Energy Information Administration provides regularly updated information on gasoline supply and pricing: <http://www.eia.doe.gov>.



**Case Study On The  
Effects of  
Fair Marketing Laws**

**Minnesota vs.  
Wisconsin**

Prepared by

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## **Case Study: A comparison of retail prices in Minnesota and Wisconsin**

### **EXAMINING CHANGES IN FAIR MARKETING LEGISLATION FROM 1984-2004**

A good case study exists in Minnesota that shows how fair marketing laws benefit consumers. Minnesota repealed its fuel fair marketing law for six years (1995-2001). In that time, when compared to Wisconsin consumers, retail prices for Minnesota consumers increased.

The case study also reveals that once the fair marketing law was reenacted, prices fell, eliminating the price disadvantage with Wisconsin consumers.

Minnesota's decision to repeal its general fair marketing law (which applied to motor fuel) in April 1995, and then enact a motor fuel specific fair marketing law in August 2001 provides a "natural experiment" to examine price effects of fair marketing legislation in two neighboring states with similar markets.

### **Summary of Findings**

#### **RETAIL PRICES INCREASED FOR MINNESOTA CONSUMERS**

During the years in which both Minnesota and Wisconsin had a fair marketing law the average retail price of unleaded gasoline was 3.78 cents higher in Minnesota than in Wisconsin. (See Table 1)

For the years when Minnesota repealed its law (May 1995 – July, 2001), the average price of motor fuel to consumers was 5.66 cents higher in Minnesota.

This translated into an additional 1.88 cent consumer price disadvantage for Minnesota residents as compared to Wisconsin after Minnesota lawmakers repealed its general fair marketing law.

Since Minnesota legislators enacted the new motor fuel specific fair marketing law that went into effect August 1, 2001, the price differential fell to 3.04 cents – ultimately eliminating the price disadvantage for Minnesota consumers.

### **Conclusion**

#### **THE PRECEDING DISCUSSION SUGGESTS THAT FAIR MARKETING LAWS DO IN FACT PROTECT CONSUMERS**

In the absence of any fair marketing legislation, prices in Minnesota increased substantially relative to Wisconsin. It is important to note that once Minnesota adopted a new motor fuel fair marketing law, those additional price disadvantages essentially disappeared. The repeal of Minnesota's fair marketing law appears not to have enhanced Minnesota's position as compared to Wisconsin in terms of the effect on gasoline prices for consumers. In fact, the data reveal just the opposite -- the repeal of Minnesota's fair marketing law hurt Minnesota consumers relative to Wisconsin consumers.

*Study conducted for the Petroleum Marketers of Wisconsin/Wisconsin Association of Convenience Stores.*

**Table 1**  
**Minnesota vs. Wisconsin: Retail Prices <sup>1</sup>**  
**With and Without Fair Marketing Law**

<b>Consumer Price</b>	<b>MN and WI Had Law (1984-April 1995) <sup>2</sup></b>	<b>No MN Law (May 1995-July 2001)</b>	<b>MN Motor Fuel Law Adopted (Aug 2001-July 2004)</b>
MN Consumer Price	81.2	89.37	111.98
WI Consumer Price	77.42	83.714	108.94
MN Price-WI Price	3.78	5.66	3.04

(1) Prices are net of all taxes.

(2) Minnesota actually had a fair marketing law that applied to all sales and not just gasoline. The law was repealed in 1995, but effective August 2001 Minnesota has reinstated a fair marketing law that applies to motor fuel.