



WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO

2003 Assembly Bill 308

**Assembly Substitute
Amendment 1**

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Assembly Bill 308 prohibits certain billing practices for consumer goods or services and specifically regulates lawn care service contracts, grants rule-making authority relating to those prohibitions, and provides penalties.

UNFAIR BILLING

Assembly Bill 308 prohibits certain consumer billing practices by sellers and lessors. The prohibited practices are:

1. Billing a person for consumer goods or services that the consumer has not agreed to purchase or lease.
2. Billing a consumer for consumer goods or services at a price that is higher than the price previously agreed upon, unless the consumer agrees to the higher price or is given the opportunity to cancel without penalty.
3. Billing a consumer for consumer goods under an agreement that is no longer in effect.
4. Offering a consumer free or reduced-price goods or services that commit the consumer to pay for other consumer goods or services, unless the seller discloses the commitment with every advertisement of the free or reduced-price goods or services.
5. Misrepresenting to a consumer that the consumer's failure to reject a delivery of consumer goods or services obligates the consumer to pay for the goods or services.

LAWN CARE SERVICE CONTRACTS

Assembly Bill 308 specifically regulates lawn care service contracts. Lawn care service under the bill consists of mowing service, trimming service, and the application of fertilizer, pesticides, or

other additives. Under the bill, a contract for lawn care service may not be in effect for more than one year unless, in the subsequent years, the person selling the lawn care service makes a written disclosure to the consumer as to the type of service provided, the price and frequency of the service, and the right of the consumer to cancel the contract. The consumer has the right to cancel the contract at no cost to the consumer if the consumer does so within 30 days after receiving the written disclosure.

Assembly Substitute Amendment 1 makes the following changes to the bill:

Unfair Billing

- Provides an exception to the prohibited consumer billing practices detailed under the bill to the agent or representative of a seller if the agent or representative did not know or did not have reason to know that its conduct violated the prohibited billing practices under the bill.

Lawn Care Service Contracts

- Allows a provider of lawn care service to continue service beyond one year if the provider makes a written disclosure *or an oral disclosure* at least 30 days before providing lawn care service under the contract in that year. Under the bill, an oral disclosure was not sufficient.
- Defines “oral disclosure” to mean a clear statement that is designed to be readily understood by the consumer.
- Requires a lawn care service provider to keep a copy of all written disclosures and a record of all oral disclosures that are made.

LEGISLATIVE HISTORY

On October 22, 2003, the Assembly Committee on Small Business introduced Assembly Substitute Amendment 1 by unanimous consent. The Assembly Committee on Small Business recommended for adoption Assembly Substitute Amendment 1 by a vote of Ayes, 10; Noes, 0.

The Assembly Committee on Small Business recommended passage of the bill, as amended, by a vote of Ayes, 10; Noes, 0.

PGC:rv;wu