



1995 ASSEMBLY BILL 558

September 12, 1995 - Introduced by Representatives KRUG, JENSEN, WASSERMAN, GREEN, SPRINGER, SCHNEIDERS, RYBA, DUFF, RILEY, OLSEN, L. YOUNG, MUSSER, PLACHE, KELSO, SERATTI and SILBAUGH, cosponsored by Senators FARROW, DRZEWIECKI and DARLING. Referred to Committee on Small Business and Economic Development.

1 **AN ACT to repeal** 20.115 (1) (r) and 100.30; **to renumber and amend** 951.10 (2);
2 **to amend** 20.115 (8) (k), 93.60, 100.201 (2) (h) 5., 100.33 (1) (c), 134.04 (1) and
3 139.39 (3); **to repeal and recreate** 100.33 (1) (g) and 100.33 (1) (h); and **to**
4 **create** 951.10 (2) (a) of the statutes; **relating to:** eliminating the prohibition
5 against selling merchandise at less than cost.

Analysis by the Legislative Reference Bureau

This bill repeals the unfair sales act, sometimes referred to as the minimum markup law, which prohibits a retailer or a wholesaler from selling merchandise at less than cost with the intent or effect of inducing the purchase of other merchandise or unfairly diverting trade from a competitor.

For further information see the **state** 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:

6 **SECTION 1.** 20.115 (1) (r) of the statutes is repealed.
7 **SECTION 2.** 20.115 (8) (k) of the statutes is amended to read:
8 20.115 (8) (k) *Computer system equipment, staff and services.* The amounts in
9 the schedule for the costs of computer system equipment, staff and services. All
10 moneys transferred for this purpose from pars. (ga), (gm), (h), (ha), (i), (j), (kp), (ks),

1 (m) and (pz) and subs. (1) (g), (gb), (gh), (gm), (hm), (j), (jm), (m),~~(r)~~ and (s), (2) (g),
2 (ha), (j), (k) and (m), (3) (g), (h), (i), (j), (ja), (L) and (m), (7) (g), (ga), (gm), (ig), (k) and
3 (m) and (9) (m) shall be credited to this appropriation.

4 **SECTION 3.** 93.60 of the statutes is amended to read:

5 **93.60 Computer system equipment, staff and services transfers.** The
6 department may transfer to the appropriation under s. 20.115 (8) (k) in each fiscal
7 year an amount from the appropriations under s. 20.115 (1) (g), (gb), (gh), (gm), (hm),
8 (j), (jm), (m),~~(r)~~ and (s), (2) (g), (ha), (j), (k) and (m), (3) (g), (h), (i), (j), (ja), (L) and (m),
9 (7) (g), (ga), (gm), (ig), (k) and (m) and (8) (ga), (gm), (h), (ha), (i), (j), (kp), (ks), (m) and
10 (pz) and (9) (m). The total amount that the department transfers in each fiscal year
11 from these appropriations to the appropriation under s. 20.115 (8) (k) may not exceed
12 the amount specified in the schedule under s. 20.115 (8) (k) for each fiscal year. The
13 amounts transferred from each appropriation shall be based on the actual costs
14 incurred by the department for computer system equipment, staff and services
15 provided for the purpose of that appropriation.

16 **SECTION 4.** 100.201 (2) (h) 5. of the statutes is amended to read:

17 100.201 (2) (h) 5. This paragraph ~~shall also apply~~ applies to any retailer who
18 owns, operates or otherwise contracts for, directly or indirectly, facilities for
19 manufacturing or processing any selected dairy product,~~and to the cost of a selected~~
20 ~~dairy product, as defined in this paragraph, shall be added both the wholesale and~~
21 ~~retail markup as provided in s. 100.30.~~

22 **SECTION 5.** 100.30 of the statutes is repealed.

23 **SECTION 6.** 100.33 (1) (c) of the statutes is amended to read:

1 100.33 (1) (c) "Plastic container" means an individual, separate, rigid plastic
2 bottle, can, jar or carton, except for a blister pack, that is originally used to contain
3 a product that is the subject of a sale at retail sale, as defined under ~~s. 100.30 (2) (h)~~.

4 **SECTION 7.** 100.33 (1) (g) of the statutes is repealed and recreated to read:

5 100.33 (1) (g) "Sales at retail" means any transfer for a valuable consideration,
6 made in the ordinary course of trade or in the usual prosecution of the retailer's
7 business, of title to tangible personal property to the purchaser for consumption or
8 use other than resale or further processing or manufacturing.

9 **SECTION 8.** 100.33 (1) (h) of the statutes is repealed and recreated to read:

10 100.33 (1) (h) "Sales at wholesale" includes any transfer for a valuable
11 consideration made in ordinary course of trade or the usual conduct of the
12 wholesaler's business, of title to tangible personal property to the purchaser for
13 purposes of resale or further processing or manufacturing.

14 **SECTION 9.** 134.04 (1) of the statutes is amended to read:

15 134.04 (1) No person, firm or corporation engaged in any enterprise in this
16 state shall, by any method or procedure directly or indirectly by itself or through a
17 subsidiary agency owned or controlled in whole or in part by such person, firm or
18 corporation, sell or procure for sale or have in its possession or under its control for
19 sale to its employees or any person any article, material, product or merchandise of
20 whatsoever nature not of the person's, firm's or corporation's production or not
21 handled in the person's, firm's or corporation's regular course of trade, excepting
22 meals, candy bars, cigarettes and tobacco for the exclusive use and consumption of
23 such employees of the employer, and excepting tools used by employees in said
24 enterprise and such specialized appliances and paraphernalia as may be required in
25 said enterprise for the employees' safety or health and articles used by employees or

1 other persons which ~~insure~~ ensure better sanitary conditions and quality in the
2 manufacture of food or food products. ~~The provisions of this~~ This subsection shall
3 does not apply to lumber producers, loggers and dealers nor to any cooperative
4 association organized under ch. 185. ~~This section shall not be construed as~~
5 ~~authorizing the sale of any merchandise at less than cost as defined in s. 100.30.~~

6 **SECTION 10.** 139.39 (3) of the statutes is amended to read:

7 139.39 (3) The secretary may suspend or revoke the permit of any permittee
8 who violates ss. ~~100.30 or~~ 139.30 to 139.44 or any rules adopted under sub. (1). The
9 secretary ~~shall revoke the permit of any permittee who violates s. 100.30 3 or more~~
10 ~~times within a 5-year period.~~

11 **SECTION 11.** 951.10 (2) of the statutes is renumbered 951.10 (2) (b) and
12 amended to read:

13 951.10 (2) (b) No retailer, ~~as defined in s. 100.30 (2) (e),~~ may sell, offer for sale,
14 barter or give away living baby rabbits, baby chicks, ducklings or other fowl under
15 2 months of age in any quantity less than 6 unless in the business of selling these
16 animals for agricultural, wildlife or scientific purposes.

17 **SECTION 12.** 951.10 (2) (a) of the statutes is created to read:

18 951.10 (2) (a) In this subsection, "retailer" includes every person engaged in the
19 business of making sales at retail within this state, except that a person who is
20 engaged in the business of selling both at retail and at wholesale is a retailer only
21 with respect to the retail portion of such business.

22 **SECTION 13. Initial applicability.**

23 (1) This act first applies to the sale of merchandise occurring on the effective
24 date of this subsection.

25 (END)