



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-2509/1

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## 2003 ASSEMBLY BILL 415

June 24, 2003 – Introduced by Representatives JOHNSRUD, MUSSER, ALBERS, PETTIS and GRONEMUS. Referred to Committee on Ways and Means.

- 1     AN ACT **to renumber and amend** 100.30 (2) (cj); and **to create** 100.30 (2) (cj)  
2       2. of the statutes; **relating to:** sales of motor vehicle fuel that are exempt from  
3       the requirements of the Unfair Sales Act.
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### *Analysis by the Legislative Reference Bureau*

Under current law, with certain exceptions, the state Unfair Sales Act or “minimum markup” law requires a wholesaler of motor vehicle fuel or tobacco products, or of fermented malt beverages, liquor, or wine, to sell those items for at least a certain percentage above the cost of the items to the wholesaler or retailer. For motor vehicle fuel sold at retail, the percentage varies depending on whether the fuel is sold from a retail station. Current law requires a wholesaler or retailer to sell any other type of merchandise for a price that is at least the wholesaler’s or retailer’s cost.

Current law provides specific methods for determining the cost to the wholesaler or the retailer. For merchandise other than motor vehicle fuel, the cost is generally computed as the lesser of the invoice cost or replacement cost of the merchandise, plus taxes and certain overhead costs, minus certain trade discounts (computed cost). For motor vehicle fuel, the cost is the greater of the computed cost or the average posted terminal price, which is an average price at which motor vehicle fuel is offered on a specific date plus excise taxes and certain overhead costs.

Under current law, among those sales that are exempt from the requirements of the Unfair Sales Act are sales where the price of merchandise is established in good faith to meet an existing price of a competitor. Current law defines the “existing price

## **ASSEMBLY BILL 415**

of a competitor" as a price being simultaneously offered to a buyer for merchandise of like quality and quantity by a person who is a direct competitor of the seller. Under this bill, the exemption applies with respect to the sale of motor vehicle fuel only if the direct competitor is located in this state.

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:***

**SECTION 1.** 100.30 (2) (cj) of the statutes is renumbered 100.30 (2) (cj) 1. and

amended to read:

100.30 (2) (cj) 1. “Existing Except as provided under subd. 2.,” “existing price of a competitor” means a price being simultaneously offered to a buyer for merchandise of like quality and quantity by a person who is a direct competitor of the retailer, wholesaler, wholesaler of motor vehicle fuel or refiner and from whom the buyer can practicably purchase the merchandise.

**SECTION 2.** 100.30 (2) (cj) 2. of the statutes is created to read:

**100.30 (2) (cj) 2.** With respect to the retail sale of motor vehicle fuel, "existing price of a competitor" means a price being simultaneously offered to a buyer for motor vehicle fuel of like quality and quantity by a person located in this state who is a direct competitor of the retailer, wholesaler, wholesaler of motor vehicle fuel or refiner and from whom the buyer can practicably purchase the motor vehicle fuel.

(END)