

1981 Assembly Bill 132

Date published: March 13, 1982

**CHAPTER 124 , Laws of 1981**

AN ACT to repeal 59.47 (9) and 100.23; to amend 14.38 (12) and 100.24; and to repeal and recreate 100.22 of the statutes, relating to discrimination in the purchase of milk and revising penalties.

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

SECTION 1. 14.38 (12) of the statutes is amended to read:

14.38 (12) DISCRIMINATION BY CORPORATIONS. If a complaint ~~shall be~~ is made to ~~him~~ the secretary of state that any corporation authorized to do business in this state is guilty of ~~unfair~~ discrimination within the terms of ss. under s. 100.22 and 100.23, refer the matter to the ~~attorney general, who~~ department of agriculture, trade and consumer protection, which shall, if the facts justify it in ~~his~~ its judgment, ~~cooperate with the district~~

~~attorney and cause appropriate administrative or judicial proceedings to be commenced in the proper court against such the corporation and its officers and members.~~

SECTION 2. 59.47 (9) of the statutes is repealed.

SECTION 3. 100.22 of the statutes is repealed and recreated to read:

**100.22 Discrimination in purchase of milk prohibited.** (1) PROHIBITION. No person engaged in the business of buying milk from producers for the purpose of manufacture, processing or resale may discriminate between producers in the price paid for milk or in services furnished in connection with the purchase of milk if the discrimination injures producers or injures, destroys or prevents competition between competing purchasers of milk.

(2) CONTRACTS VOID. A contract in violation of this section or a special order issued under this section is void.

(3) JUSTIFICATION DEFENSE. It is a defense to a prosecution for violation of this section or a special order issued under this section to prove that the discrimination in price or services was done in good faith to meet competition or was commensurate with an actual difference in the quality or quantity of or transportation charges or marketing expenses for the milk purchased.

(4) ENFORCEMENT. (a) The department may, after hearing, issue a special order enjoining violations of this section.

(b) The department may, without alleging or proving that no other adequate remedy at law exists, bring an action to enjoin violations of this section or a special order issued under this section in the circuit court for the county where the alleged violation occurred.

(5) PENALTIES. (a) A person who violates this section shall forfeit not less than \$100 nor more than \$2,500.

(b) A person who violates a special order issued under this section shall forfeit not less than \$200 nor more than \$5,000.

SECTION 4. 100.23 of the statutes is repealed.

SECTION 5. 100.24 of the statutes is amended to read:

**100.24 Revocation of corporate authority.** Any corporation, foreign or domestic, which violates ~~s. 100.22~~ or any order issued under s. 100.20 may be enjoined from doing business in this state and its certificate of authority or incorporation may be canceled or revoked. The attorney general may bring an action for this purpose in the name of the state. In any such action judgment for injunction, cancellation or revocation may be rendered by the court, upon such terms as it deems just and in the public interest, but only upon proof of a substantial and wilful violation.

SECTION 8. **Program responsibilities.** (1) In the list of program responsibilities for the department of justice under section 15.251 (intro.) of the statutes, reference to section 14.38 (12) of the statutes is deleted.

(2) In the list of program responsibilities for the department of agriculture, trade and consumer protection under section 15.131 (intro.) of the statutes, reference to section 14.38 (12) of the statutes is inserted.

SECTION 9. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

| A                | B                           | C                    |
|------------------|-----------------------------|----------------------|
| Statute Sections | Old Cross-References        | New Cross-References |
| 100.26 (3)       | 100.15, 100.19 or<br>100.22 | 100.15 or 100.19     |