

1999 ASSEMBLY BILL 76

February 2, 1999 – Introduced by COMMITTEE ON INFORMATION POLICY. Referred to Committee on Information Policy.

1 **AN ACT** *to repeal* 20.115 (1) (d); *to amend* 814.04 (intro.); and *to create* 20.115
2 (1) (d) and 100.261 of the statutes; **relating to:** untrue, deceptive or misleading
3 statements in connection with the ability of an electronic computing device to
4 process, transmit or receive date data from, into and between the 20th and 21st
5 centuries, and during the years 1999 and 2000, and from leap year calculations,
6 making an appropriation and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill prohibits a person from making any statement or representation with regard to the year 2000 readiness of an electronic computing device which is false, misleading or deceptive. Under the bill, it is false, misleading or deceptive to state or represent that an electronic computing device is able to process, transmit or receive date data from, into and between the 20th and 21st centuries and during the years 1999 and 2000, and from leap year calculations if the electronic computing device cannot do so without modification or alteration.

A person who violates this prohibition may be subject to a forfeiture (civil monetary penalty) of not less than \$100 nor more than \$10,000. In addition, a person adversely affected by the false, misleading or deceptive statement or representation may bring an action for relief and may be awarded one or more of the following: damages of not less than \$500 nor more than twice the amount of actual damages; injunctive or declaratory relief; specific performance; and reasonable attorney fees.

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In addition, the department of justice at the request of the department of agriculture, trade and consumer protection (DATCP) or a district attorney may bring an action to restrain a person from violating the prohibition created in the bill and to award a person damaged by any violation twice the amount of damages the person suffered.

Finally, under the bill DATCP may request any person to provide DATCP with information about the year 2000 readiness of any electronic computing device that the person sells or offers to sell or has ever sold or offered to sell in this state. If a person fails to respond to an information request from DATCP or if the person provides false, misleading or deceptive information to DATCP, then any person adversely affected by the failure of that electronic computing device to be year 2000 ready may bring an action against the person who failed to respond or who responded with false, misleading or deceptive information. The court may award the injured party appropriate relief, including damages of not less than \$500 nor more than twice the amount of actual damages, injunctive or declaratory relief, specific performance and reasonable attorney fees.

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

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

3				1997-98	1998-99
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4 **20.115 Agriculture, trade and consumer**
5 **protection, department of**

6 (1) **FOOD SAFETY AND CONSUMER PROTECTION**

7	(d)	Year 2000 consumer protection	GPR	C	-0-	410,700
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8 **SECTION 2.** 20.115 (1) (d) of the statutes is created to read:

9 20.115 (1) (d) *Year 2000 consumer protection.* As a continuing appropriation,
10 the amounts in the schedule for the administration and enforcement of s. 100.261
11 and other consumer protection activities relating to the year 2000 readiness of
12 electronic computing devices.

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1 **SECTION 3.** 20.115 (1) (d) of the statutes, as created by 1999 Wisconsin Act ...
2 (this act), is repealed.

3 **SECTION 4.** 100.261 of the statutes is created to read:

4 **100.261 Year 2000 readiness. (1) DEFINITIONS.** In this section:

5 (a) “Electronic computing device” means any computer hardware or software,
6 computer chip, embedded chip, process control equipment, or other information
7 system used to capture, store, manipulate, or process information, or that controls,
8 monitors, or assists in the operation of physical apparatus that relies on automation
9 or digital technology to function.

10 (b) “Process” includes calculate, compare, sequence, display and store.

11 (c) “Year 2000 readiness” means the ability to process, transmit or receive date
12 data from, into and between the 20th and 21st centuries, and during the years 1999
13 and 2000, and from leap year calculations.

14 **(2) ADVERTISING AND SALES REPRESENTATIONS.** A person may not make any
15 statement or representation with regard to the year 2000 readiness of an electronic
16 computing device which is false, misleading or deceptive, or which omits material
17 information with respect to the year 2000 readiness of an electronic computing
18 device that is necessary to make the statement not false, misleading or deceptive.
19 For the purpose of this subsection, it is false, misleading or deceptive to state or
20 represent that an electronic computing device is able to process, transmit or receive
21 date data from, into and between the 20th and 21st centuries and during the years
22 1999 and 2000, and from leap year calculations if the electronic computing device
23 cannot do so without modification or alteration.

24 **(3) INFORMATION ON YEAR 2000 READINESS.** The department may request
25 information about the year 2000 readiness of an electronic computing device from

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1 any person who sells or offers to sell or who has ever sold or offered to sell an
2 electronic computing device to a person in this state.

3 (4) REMEDIES AND PENALTIES. (a) 1. If a person makes a statement or
4 representation in violation of sub. (2), any other person adversely affected by that
5 violation has a claim for appropriate relief, including not less than \$500 nor more
6 than twice the amount of damages, injunctive or declaratory relief, specific
7 performance and rescission.

8 2. If a person fails to respond to an information request about the year 2000
9 readiness of an electronic computing device by the department under sub. (3) or if the
10 person provides information to the department in response to a request about the
11 year 2000 readiness of an electronic computing device under sub. (3) that is false,
12 misleading or deceptive, then any person adversely affected by the failure of that
13 electronic computing device to process, transmit or receive data from, into and
14 between the 20th and 21st centuries and during the years 1999 and 2000, and from
15 leap year calculations has a claim for appropriate relief, including not less than \$500
16 nor more than twice the amount of damages, injunctive or declaratory relief, specific
17 performance and rescission against the person who failed to respond to the
18 department's request or gave the department false, misleading or deceptive
19 information.

20 3. A person who is entitled to relief under subd. 1. or 2. is also entitled to recover
21 costs and disbursements, including reasonable attorney fees.

22 (b) 1. The department of agriculture, trade and consumer protection may
23 request the department of justice to commence, or any district attorney, upon
24 informing the department of agriculture, trade and consumer protection, may
25 commence, an action in circuit court in the name of the state to restrain by temporary

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1 or permanent injunction any violation of sub. (2). In addition to injunctive relief, the
2 court may award any person twice the amount of any damages suffered because of
3 a violation of sub. (2).

4 2. The department may exercise its authority under ss. 93.14 to 93.16 and
5 100.18 (11) (c) to administer this section. The department may subpoena persons and
6 require the production of books and other documents in a timely manner.

7 (c) Any person who violates sub. (2) or who fails to respond to an information
8 request made by the department under sub. (3) or who provides information to the
9 department in response to a request made under sub. (3) that is false, misleading or
10 deceptive shall forfeit not less than \$100 nor more than \$10,000 for each offense.

11 (d) This section does not preempt the administration or enforcement of this
12 chapter or ch. 133. Practices in violation of this section may also constitute unfair
13 methods of competition or unfair trade practices under s. 100.20 (1) or (1t) or
14 fraudulent representations under s. 100.18 (1) or violate ch. 133.

15 **SECTION 5.** 814.04 (intro.) of the statutes is amended to read:

16 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),
17 106.04 (6) (i) and (6m) (a), 100.261 (4) (a) 3., 115.80 (9), 769.313, 814.025, 814.245,
18 895.035 (4), 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3), 943.212 (2) (b), 943.245 (2)
19 (d) and 943.51 (2) (b), when allowed, costs shall be as follows:

20 **SECTION 6. Nonstatutory provisions.**

21 (1) The authorized FTE positions for the department of agriculture, trade and
22 consumer protection are increased by 4.0 GPR project positions, to be funded from
23 the appropriation under section 20.115 (1) (d) of the statutes, as created by this act,
24 for the purpose of administering and enforcing section 100.261 of the statutes, as
25 created by this act, and other consumer protection activities relating to the year 2000

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1 readiness, as defined in section 100.261 (1) (c) of the statutes, as created by this act,
2 of an electronic computing device, as defined in section 100.261 (1) (a) of the statutes,
3 as created by this act for the period ending on June 30, 2001.

4 **SECTION 7. Effective dates.** This act takes effect on the day after publication,
5 except as follows:

6 (1) The repeal of section 20.115 (1) (d) of the statutes takes effect on July 1,
7 2001.

8 (END)