

**1999 DRAFTING REQUEST**

**Bill**

Received: **01/20/99**

Received By: **nelsorp1**

Wanted: **01/21/99**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **Sue Moe**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Trade Regulation  
Courts - civil procedure**

Extra Copies:

**Topic:**

Representations regarding year 2000 readiness

**Instructions:**

See 99s0002/3

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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FE Sent For:

*Not Needed*

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1/?	nelsorp1	1-1-20-99 kmj	<sup>IS</sup> 1/20/99	<sup>IS/LP</sup> 1/20/99			

FE Sent For:

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~~1/21/8am~~

1999 - 2000 LEGISLATURE

-1885/1

LRB 000243

RNK&RPN:kmg:km



1999 Bill

**ASSEMBLY SUBSTITUTE AMENDMENT,  
TO 1999 ASSEMBLY BILL (LRB-1088/1)**

Today By 4:30

Sen Cat.

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 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.

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

Insert an l.

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

1997-98      1998-99

**20.115 Agriculture, trade and consumer protection, department of**

(1) FOOD SAFETY AND CONSUMER PROTECTION

(d) Year 2000 consumer protection      GPR      C      -0-      410,700

**SECTION 2.** 20.115 (1) (d) of the statutes is created to read:

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

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 (this act), is repealed.

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

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

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

(b) "Process" includes calculate, compare, sequence, display and store.

(c) "Year 2000 readiness" means the ability 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.

1           (2) ADVERTISING AND SALES REPRESENTATIONS. A person may not make any  
2 statement or representation with regard to the year 2000 readiness of an electronic  
3 computing device which is false, misleading or deceptive, or which omits material  
4 information with respect to the year 2000 readiness of an electronic computing  
5 device that is necessary to make the statement not false, misleading or deceptive.  
6 For the purpose of this subsection, it is false, misleading or deceptive to state or  
7 represent that an electronic computing device is able to process, transmit or receive  
8 date data from, into and between the 20th and 21st centuries and during the years  
9 1999 and 2000, and from leap year calculations if the electronic computing device  
10 cannot do so without modification or alteration.

11           (3) INFORMATION ON YEAR 2000 READINESS. The department may request  
12 information about the year 2000 readiness of an electronic computing device from  
13 any person who sells or offers to sell or who has ever sold or offered to sell an  
14 electronic computing device to a person in this state.

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

20           2. If a person fails to respond to an information request about the year 2000  
21 readiness of an electronic computing device by the department under sub. (3) or if the  
22 person provides information to the department in response to a request about the  
23 year 2000 readiness of an electronic computing device under sub. (3) that is false,  
24 misleading or deceptive, then any person adversely affected by the failure of that  
25 electronic computing device to process, transmit or receive date data from, into and

1 between the 20th and 21st centuries and during the years 1999 and 2000, and from  
2 leap year calculations has a claim for appropriate relief, including not less than \$500  
3 nor more than twice the amount of damages, injunctive or declaratory relief, specific  
4 performance and rescission against the person who failed to respond to the  
5 department's request or gave the department false, misleading or deceptive  
6 information.

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

9 (b) 1. The department of agriculture, trade and consumer protection may  
10 request the department of justice to commence, or any district attorney, upon  
11 informing the department of agriculture, trade and consumer protection, may  
12 commence, an action in circuit court in the name of the state to restrain by temporary  
13 or permanent injunction any violation of sub. (2). In addition to injunctive relief, the  
14 court may award any person twice the amount of any damages suffered because of  
15 a violation of sub. (2).

16 2. The department may exercise its authority under ss. 93.14 to 93.16 and  
17 100.18 (11)(c) to administer this section. The department may subpoena persons and  
18 require the production of books and other documents in a timely manner.

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

23 (d) This section does not preempt the administration or enforcement of this  
24 chapter or ch. 133. Practices in violation of this section may also constitute unfair

1 methods of competition or unfair trade practices under s. 100.20 (1) or (1t) or  
2 fraudulent representations under s. 100.18 (1) or violate ch. 133.

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

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

8 **SECTION 6. Nonstatutory provisions.**

9 (1) The authorized FTE positions for the department of agriculture, trade and  
10 consumer protection are increased by 4.0 GPR project positions, to be funded from  
11 the appropriation under section 20.115 (1) (d) of the statutes, as created by this act,  
12 for the purpose of administering and enforcing section 100.261 of the statutes, as  
13 created by this act, and other consumer protection activities relating to the year 2000  
14 readiness, as defined in section 100.261 (1) (c) of the statutes, as created by this act,  
15 of an electronic computing device, as defined in section 100.261 (1) (a) of the statutes,  
16 as created by this act for the period ending on June 30, 2001.

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

19 (1) The repeal of section 20.115 (1) (d) of the statutes takes effect on July 1,  
20 2001.

21 (END)

**BILL**

Insert a/c.

1852/11

transmitting or receiving date data from, into and between the 20th and 21st centuries and during the years 1999 and 2000, and from leap year calculations. Currently, no such authority exists.

Under the bill, if any business fails to provide the information required, knowingly gives a false answer to a request for information or evades the answer to any request for information, each director, partner or proprietor of that business is subject to a forfeiture (civil penalty) of \$100 for each offense. Each day of violation constitutes a separate offense.

The bill requires each state or local governmental unit which or officer who receives information under the bill to withhold from access all information provided to the unit or officer under the public records access law, except that the unit or officer must provide the information to DOA upon written request of the department and may, upon written consent of a person who provides information to the unit or officer, provide the information to another specified person or to any person.

**Educational outreach**

This bill directs DOA to contract with one or more private contractors to provide educational outreach with respect to the potential failure of computers 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, and the methods of correction and contingency planning for such failures. Under the bill, DOA has discretion to determine the persons to whom the outreach is to be provided. The bill appropriates \$100,000 in general purpose revenue for this purpose, to be utilized prior to January 1, 2000.

Currently, DOA has no authority or responsibility to conduct outreach for this purpose. Under current law, state agencies may contract for services that they are authorized or required to provide if the services can be provided more economically or efficiently by contract, subject to certain statutory requirements, rules of DOA and collective bargaining laws and agreements. State agencies must justify the need for contractual service procurements. This bill provides that certain of these statutes and rules do not apply to the contractual services that DOA is required to procure under the bill.

**~~False, deceptive or misleading statements or representations concerning year 2000 readiness~~**

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;





**BILL**

injunctive or declaratory relief; specific performance; and reasonable attorney fees. 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.

***Admissibility of statements concerning year 2000 processing capabilities***

This bill provides that no year 2000 processing information provided by a person at the request of a governmental unit that has regulatory power over the person is admissible in any civil action or proceeding. Any other year 2000 processing information may be offered in evidence only if the information is in a statement made by a person who knew that the statement was false, misleading or deceptive or that was made with reckless disregard as to the truth or falsity of the statement, if the information is in a republished year 2000 statement that the person who republished the statement knew was false, misleading or deceptive, if the information is in a statement made by a person who was compensated for providing a year 2000 statement as part of a contractual service or made by a person when soliciting a consumer, if the information is offered in any action brought by the state or a local governmental unit acting in regulatory, supervisory or enforcement capacity or if the information is offered in an action relating to false, deceptive or misleading statements or representations concerning year 2000 readiness.

***Testing of local emergency management contingency plans***

Under current law, the adjutant general, as the head of the department of military affairs is required to develop and promulgate a statewide plan of emergency management for the security of persons and property and to provide training to and standards for local emergency planning agencies. This bill gives the adjutant general the funding authority for the testing of the local emergency management agency contingency plans concerning possible failure of computer devices to deal with the year 2000 problems.

***Activation of national guard***

Under current law, in response to a war, insurrection, rebellion, riot or invasion, in the event of a public disaster resulting from a flood, conflagration or tornado, or upon application of certain public officials, the governor may order into active service all or any portion of the national guard. Current law also includes a procedure for activating the national guard if the governor is not able to do so.