

1999 DRAFTING REQUEST

Bill

Received: **01/27/2000**

Received By: **dykmapj**

Wanted: **Today**

Identical to LRB: **99-4321/2**

For: **Charles Chvala (608) 266-9170**

By/Representing: **David Schug**

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

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Agriculture - miscellaneous
Justice - civil
Trade Regulation**

Extra Copies: **TAY
RCT
MGG
RNK
LFB-David Schug**

Pre Topic:

No specific pre topic given

Topic:

Transfer certain consumer protection programs to DOJ

Instructions:

See Attached

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>
/1	dykmapj 01/27/2000	gilfokm 01/27/2000	haugeca 01/27/2000	_____	lrb_docadmin 01/28/2000		State

FE Sent For:

<END>

1999 DRAFTING REQUEST

Bill

Received: **01/27/2000**

Received By: **dykmapj**

Wanted: **Today**

Identical to LRB: **99-4321/2**

For: **Charles Chvala (608) 266-9170**

By/Representing: **David Schug**

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

Drafter: **dykmapj**

May Contact:

Alt. Drafters:

Subject: **Agriculture - miscellaneous
Justice - civil
Trade Regulation**

Extra Copies: **TAY
RCT
MGG
RNK
LFB-David Schug**

Pre Topic:

No specific pre topic given

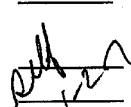
Topic:

Transfer certain consumer protection programs to DOJ

Instructions:

See Attached

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>
/?	dykmapj	1-1/27 King	CH 1-27	 1-27			

FE Sent For:

<END>



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4441/1 ✓

PJD;jlg:ijs

↑
Stacy

1999 BILL

Today

1 **AN ACT to repeal** 100.207 (6) (em) and 165.25 (4) (ar); **to renumber** 100.207
2 (title) and (1) to (5); **to renumber and amend** 100.171, 100.173, 100.174,
3 100.175, 100.177, 100.205, 100.206, 100.207 (6) (b), (c), (e) and (f), 100.209,
4 100.28, 100.50 and 100.51; **to amend** 20.115 (1) (hm), 20.455 (1) (hm), 60.23
5 (24), 100.178 (1) (c), 100.178 (4), 100.178 (7), 100.18 (8), 100.18 (11) (d), 100.182
6 (5) (a), 100.182 (5) (b), 100.2095 (6) (b), 100.2095 (6) (c), 100.21 (3) (a), 100.26
7 (1), 100.26 (6), 100.264 (2) (intro.), 100.264 (3), 134.71 (12), 134.95 (2), 134.95
8 (3), 134.99 (1), 136.03 (title), 136.03 (1) (intro.), 196.219 (3) (n), 344.576 (3) (a)
9 5., 344.576 (3) (c), 344.579 (2) (intro.), 618.41 (6m), 631.01 (1) (b), 631.01 (4m),
10 632.18, 704.90 (11) (title), 704.90 (11) (a), 704.90 (11) (b), 707.49 (4), 707.55 (10),
11 707.57 (2), 707.57 (3), 779.93 (title), 779.93 (1) and 779.93 (2) (intro.); and **to**
12 **create** 100.18 (11) (b) 1. of the statutes; **relating to:** transferring certain
13 consumer protection functions performed by the department of agriculture,

BILL

1 trade and consumer protection to the department of justice, granting
2 rule-making authority and making appropriations.

Analysis by the Legislative Reference Bureau**STATE GOVERNMENT****OTHER STATE GOVERNMENT**

Under current law, the department of agriculture, trade and consumer protection (DATCP) administers and enforces certain consumer protection and trade practice laws. In administering and enforcing these laws, DATCP either has exclusive authority or joint authority, with the department of justice (DOJ) having a secondary role. These laws include laws relating to fraudulent drug advertising, methods of competition and trade practices, motor vehicle rustproofing warranties, telecommunications services, sale of cleaning agents and water conditioners containing phosphorus, sale of products containing or made with ozone-depleting substances, ticket refunds, dating service contracts, fitness center and weight reduction center contracts, pawnbrokers and secondhand article and jewelry dealers, prize notices, mail-order sales, time-share ownerships, motor fuel dealerships, prepaid maintenance liens, self-service storage facilities, rental of private passenger vehicles, future service plans, and cable television subscriber rights.

This bill transfers either all of or part of the administrative and enforcement authority for these laws that DATCP has under current law to DOJ. For those laws for which DATCP and DOJ have joint authority under the bill, DATCP has a secondary role in their enforcement and administration.

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:

3 **SECTION 1.** 20.115 (1) (hm) of the statutes is amended to read:
4 20.115 (1) (hm) *Ozone-depleting refrigerants and products regulation.* The
5 amounts in the schedule for administration of the mobile air conditioner servicing
6 and refrigerant recycling programs and for responsibilities under ~~ss. s.~~ s. 100.45 and
7 100.50 relating to sales and labeling of products containing or made with
8 ozone-depleting substances. All moneys received from fees under s. 100.45 (5) (a) 3.
9 and (5m) shall be credited to this appropriation.

BILL

1 **SECTION 2.** 20.455 (1) (hm) of the statutes is amended to read:

2 20.455 (1) (hm) *Restitution.* All moneys received by the department to provide
3 restitution to victims when ordered by the court as the result of prosecutions under
4 s. 49.49 and chs. 100, 133, 134, 281 to 285 and 289 to 299 and under a federal
5 antitrust law for the purpose of providing restitution to victims of the violation when
6 ordered by the court.

7 **SECTION 3.** 60.23 (24) of the statutes is amended to read:

8 60.23 (24) CABLE TELEVISION. Enact and enforce an ordinance, and provide
9 forfeitures for a violation of that ordinance, that is similar to s. ~~100.209~~ 134.42, or
10 that gives a cable service subscriber greater rights than the rights under s. ~~100.209~~
11 134.42 (2).

12 **SECTION 4.** 100.171 of the statutes is renumbered 134.74, and 134.74 (7) (b) and
13 (8) (intro.), as renumbered, are amended to read:

14 134.74 (7) (b) Whoever intentionally violates this section may be fined not more
15 than \$10,000 or imprisoned for not more than 3 years or both. A person intentionally
16 violates this section if the violation occurs after the department of justice or a district
17 attorney has notified the person by certified mail that the person is in violation of this
18 section.

19 (8) ENFORCEMENT. (intro.) The department of justice shall investigate
20 violations of this section. The department of justice or any district attorney may on
21 behalf of the state:

22 **SECTION 5.** 100.173 of the statutes is renumbered 134.22, and 134.22 (4) (intro.)
23 and (a), as renumbered, are amended to read:

BILL

1 134.22 (4) (intro.) The department of justice shall investigate violations of this
2 section. The department of justice, or any district attorney upon informing the
3 department, may, on behalf of the state, do any of the following:

4 (a) Bring an action for temporary or permanent injunctive relief in any court
5 of competent jurisdiction for any violation of this section. The relief sought by the
6 department of justice or district attorney may include the payment by a promoter
7 into an escrow account of an amount estimated to be sufficient to pay for ticket
8 refunds. The court may, upon entry of final judgment, award restitution when
9 appropriate to any person suffering loss because of violations of this section if proof
10 of such loss is submitted to the satisfaction of the court.

11 **SECTION 6.** 100.174 of the statutes is renumbered 134.83, and 134.83 (5) (intro.)
12 and (6), as renumbered, are amended to read:

13 134.83 (5) (intro.) The department of justice or any district attorney may on
14 behalf of the state:

15 (6) The department of justice and the department of agriculture, trade and
16 consumer protection shall ~~investigate~~ cooperate in the investigation of violations of
17 and enforce in the enforcement of this section.

18 **SECTION 7.** 100.175 of the statutes is renumbered 134.68, and 134.68 (5) (a)
19 (intro.) and (b) and (7) (a) (intro.) and (b), as amended, are amended to read:

20 134.68 (5) (a) (intro.) No person may collect or by contract require a buyer to
21 pay more than \$100 for dating services before the buyer receives or has the
22 opportunity to receive those services unless the person selling dating services
23 establishes proof of financial responsibility by maintaining any of the following
24 commitments approved by the department of justice in an amount not less than
25 \$25,000:

BILL

1 (b) The commitment described in par. (a) shall be established in favor of or made
2 payable to the state, for the benefit of any buyer who does not receive a refund under
3 the contractual provision described in sub. (3). The person selling dating services
4 shall file with the department of justice any agreement, instrument or other
5 document necessary to enforce the commitment against the person selling dating
6 services or any relevant 3rd party, or both.

7 (7) (a) (intro.) The department of justice or any district attorney may on behalf
8 of the state:

9 (b) The department of justice may bring an action in circuit court to recover on
10 a financial commitment maintained under sub. (5) against a person selling dating
11 services or relevant 3rd party, or both, on behalf of any buyer who does not receive
12 a refund due under the contractual provision described in sub. (3).

13 **SECTION 8.** 100.177 of the statutes is renumbered 134.70, and 134.70 (13) (b)
14 1. (intro.), 2. and 3. and (15) (a) (intro.) and (am), as renumbered, are amended to
15 read:

16 134.70 (13) (b) 1. (intro.) Except as provided in subd. 3., a center may establish
17 proof of financial responsibility required under par. (a) by maintaining an
18 established escrow account approved by the department of justice for all amounts
19 received from buyers in advance of the receipt of services or by maintaining any of
20 the following commitments approved by the department of justice in an amount not
21 less than \$25,000, subject to subd. 2.:

22 2. The commitment described in subd. 1. shall be established in favor of or made
23 payable to the state, for the benefit of any buyer who does not receive a refund under
24 sub. (11) (a). The center shall file with the department of justice any agreement,

BILL

1 instrument or other document necessary to enforce the commitment against the
2 center or any relevant 3rd party, or both.

3 3. For 6 or more weight reduction centers owned or operated under the same
4 trade name, the amount of the financial commitment under pars. (a) and (b) for those
5 weight reduction centers is not required to exceed a total of \$150,000. For a weight
6 reduction center that submits to the department of justice evidence satisfactory to
7 the department that the weight reduction center collected a total of \$50,000 or more
8 but less than \$100,000 from buyers of its center services in the previous calendar
9 year, the amount of the financial commitment under pars. (a) and (b) is not required
10 to exceed \$10,000. For a weight reduction center that submits to the department of
11 justice evidence satisfactory to the department that the weight reduction center
12 collected less than a total of \$50,000 from buyers of its center services in the previous
13 calendar year, the amount of the financial commitment under pars. (a) and (b) is not
14 required to exceed \$5,000.

15 (15) (a) (intro.) The department of justice and the department of agriculture,
16 trade and consumer protection shall cooperatively investigate violations of this
17 section or s. 100.178 (2) or (4). The department of justice may on behalf of the state:

18 (am) The department of justice may bring an action in circuit court to recover
19 on a financial commitment maintained under sub. (13) against a center or relevant
20 3rd party, or both, on behalf of any buyer who does not receive a refund due under
21 sub. (11) (a).

22 **SECTION 9.** 100.178 (1) (c) of the statutes is amended to read:

23 100.178 (1) (c) "Fitness center" has the meaning given under s. ~~100.177~~ 134.70
24 (1) (c).

25 **SECTION 10.** 100.178 (4) of the statutes is amended to read:

BILL

1 100.178 (4) A fitness center shall post a notice or notices on its premises stating
2 the requirements of sub. (2) and the penalty for a violation of sub. (2) under s. ~~100.177~~
3 134.70 (15) (a). The notice shall comply with the rules promulgated by the
4 department under sub. (5) (d).

5 **SECTION 11.** 100.178 (7) of the statutes is amended to read:

6 100.178 (7) A violation of sub. (2) or (4) is subject to s. ~~100.177~~ 134.70 (15) (a).
7 This subsection or s. ~~100.177~~ 134.70 (15) (a) does not preclude a person injured as a
8 result of a violation of this section from pursuing any other available equitable or
9 legal relief.

10 **SECTION 12.** 100.18 (8) of the statutes is amended to read:

11 100.18 (8) Every wholesaler and every other person selling or distributing
12 motor fuel in this state shall keep posted in a conspicuous place, most accessible to
13 the public at his or her place of business, and on every pump from which delivery is
14 made directly into the fuel tank attached to a motor vehicle, a placard showing the
15 net selling price per gallon of all grades of motor fuel and the amount of all taxes per
16 gallon thereon. On pumps or other dispensing equipment from which motor fuel is
17 sold and delivered directly into fuel supply tanks attached to motor vehicles, such
18 posting shall be in figures not less than one inch high, except that no such placard
19 shall be required on a computer pump whereon the total net selling price per gallon
20 including all taxes is legibly shown on its face. Except for sales to drivers of motor
21 vehicles used by physically disabled persons under s. ~~100.51~~ 134.85 (5), all sales shall
22 be made at the posted price. Delivery slips shall also show the net selling price per
23 gallon of all grades of motor fuel and the amount of all taxes per gallon thereon. If
24 the wholesaler or person has more than one place of business in this state, the
25 wholesaler or person shall post that placard at all of his or her places of business.

BILL

1 All prices posted shall remain in effect for at least 24 hours after they are posted.
2 It shall be considered deceptive advertising to advertise or represent in any manner
3 the price of motor fuel offered for sale at retail to be less than the price so posted on
4 each pump.

5 **SECTION 13.** 100.18 (11) (b) 1. of the statutes is created to read:

6 100.18 (11) (b) 1. The department of agriculture, trade and consumer
7 protection may request that the department of justice commence an action to enjoin
8 a violation of this section. If the department of agriculture, trade and consumer
9 protection so requests, the department of justice shall proceed with the requested
10 action within a reasonable period of time or provide the department of agriculture,
11 trade and consumer protection with a brief statement of its reasons for not
12 proceeding. The department of justice shall further provide the department of
13 agriculture, trade and consumer protection with periodic summaries of all activity
14 under this section.

15 **SECTION 14.** 100.18 (11) (d) of the statutes is amended to read:

16 100.18 (11) (d) The department or the department of justice, ~~after consulting~~
17 ~~with the department,~~ or any district attorney, upon informing the department of
18 justice, may commence an action in circuit court in the name of the state to restrain
19 by temporary or permanent injunction any violation of this section. The court may
20 in its discretion, prior to entry of final judgment, make such orders or judgments as
21 may be necessary to restore to any person any pecuniary loss suffered because of the
22 acts or practices involved in the action, provided proof thereof is submitted to the
23 satisfaction of the court. The department ~~and the department~~ of justice may
24 subpoena persons and require the production of books and other documents, and the
25 department of justice may request the department of agriculture, trade and

BILL

1 consumer protection to exercise its authority under par. (c) to aid in the investigation
2 of alleged violations of this section.

3 **SECTION 15.** 100.182 (5) (a) of the statutes is amended to read:

4 100.182 (5) (a) Any district attorney, after informing the department of justice,
5 or the department of agriculture, trade and consumer protection or the department
6 of justice may seek a temporary or permanent injunction in circuit court to restrain
7 any violation of this section. Prior to entering a final judgment the court may award
8 damages to any person suffering monetary loss because of a violation. The
9 department of justice may subpoena any person or require the production of any
10 document to aid in investigating alleged violations of this section.

11 **SECTION 16.** 100.182 (5) (b) of the statutes is amended to read:

12 100.182 (5) (b) In lieu of instituting or continuing an action under this
13 subsection, the department or the department of justice may accept a written
14 assurance from a violator of this section that the violation has ceased. If the terms
15 of the assurance so provide, its acceptance by the either department prevents the
16 other department and all district attorneys from prosecuting the violation. An
17 assurance is not evidence of a violation of this section but violation of an assurance
18 is subject to the penalties and remedies of violating this section.

19 **SECTION 17.** 100.205 of the statutes is renumbered 134.178, and 134.178 (7)
20 and (8), as renumbered, are amended to read:

21 134.178 (7) The department of justice, or any district attorney on informing the
22 department of justice, may commence an action in circuit court in the name of the
23 state to restrain by temporary or permanent injunction any violation of this section.
24 The court may, before entry of final judgment and after satisfactory proof, make
25 orders or judgments necessary to restore to any person any pecuniary loss suffered

BILL

1 because of a violation of this section. The department of justice may conduct
2 hearings, administer oaths, issue subpoenas and take testimony to aid in its
3 investigation of violations of this section.

4 (8) The department of justice or any district attorney may commence an action
5 in the name of the state to recover a forfeiture to the state of not more than \$10,000
6 for each violation of this section.

7 **SECTION 18.** 100.206 of the statutes is renumbered 134.24, and 134.24 (2) (a)
8 (intro.), as renumbered, is amended to read:

9 134.24 (2) (a) (intro.) File annually for public inspection with the department
10 of justice all of the following:

11 **SECTION 19.** 100.207 (title) and (1) to (5) of the statutes are renumbered
12 134.179 (title) and (1) to (5).

13 **SECTION 20.** 100.207 (6) (b), (c), (e) and (f) of the statutes are renumbered
14 134.179 (6) (b), (c), (e) and (f), and 134.179 (6) (b) 1. and 2., (c) and (e), as renumbered,
15 are amended to read:

16 134.179 (6) (b) 1. The department of justice, ~~after consulting with~~ on its own
17 initiative or at the request of the department of agriculture, trade and consumer
18 protection, or any district attorney upon informing the department of ~~agriculture,~~
19 ~~trade and consumer protection~~ justice, may commence an action in circuit court in
20 the name of the state to restrain by temporary or permanent injunction any violation
21 of this section. Injunctive relief may include an order directing telecommunications
22 providers, as defined in s. 196.01 (8p), to discontinue telecommunications service
23 provided to a person violating this section or ch. 196. Before entry of final judgment,
24 the court may make such orders or judgments as may be necessary to restore to any

BILL

1 person any pecuniary loss suffered because of the acts or practices involved in the
2 action if proof of these acts or practices is submitted to the satisfaction of the court.

3 2. The department of agriculture, trade and consumer protection may exercise
4 its authority under ss. 93.14 to 93.16 and 100.18 (11) (c) to administer this section.
5 The department ~~and the department~~ of justice may subpoena persons and require
6 the production of books and other documents, and the department of justice may
7 request the department of agriculture, trade and consumer protection to exercise its
8 authority to aid in the investigation of alleged violations of this section.

9 (c) Any person who violates subs. (2) to (4) shall be required to forfeit not less
10 than \$25 nor more than \$5,000 for each offense. Forfeitures under this paragraph
11 shall be enforced by the department of justice, ~~after consulting with~~ on its own
12 initiative or at the request of the department of agriculture, trade and consumer
13 protection, or, upon informing the department of justice, by the district attorney of
14 the county where the violation occurs.

15 (e) ~~Subject to par. (em), the~~ The department of agriculture, trade and consumer
16 protection, in consultation with the department of justice, shall promulgate rules
17 under this section.

18 **SECTION 21.** 100.207 (6) (em) of the statutes is repealed.

19 **SECTION 22.** 100.209 of the statutes is renumbered 134.42, and 134.42 (3) and
20 (4) (b), as renumbered, are amended to read:

21 134.42 (3) RULES AND LOCAL ORDINANCES ALLOWED. This section does not prohibit
22 the department of agriculture, trade and consumer protection from promulgating a
23 rule or from issuing an order consistent with its authority under ~~this chapter~~ ch. 100
24 that gives a subscriber greater rights than the rights under sub. (2) or prohibit a city,

BILL

1 village or town from enacting an ordinance that gives a subscriber greater rights
2 than the rights under sub. (2).

3 (4) (b) The department attorney general and the district attorneys of this state
4 have concurrent authority to institute civil proceedings under this section.

5 **SECTION 23.** 100.2095 (6) (b) of the statutes is amended to read:

6 100.2095 (6) (b) The department of justice may commence an action in the
7 name of the state to restrain by temporary or permanent injunction a violation of sub.
8 (3), (4) or (5). Before entry of final judgment, the court may make any necessary
9 orders to restore to any person any pecuniary loss suffered by the person because of
10 the violation.

11 **SECTION 24.** 100.2095 (6) (c) of the statutes is amended to read:

12 100.2095 (6) (c) The department of justice or any district attorney may
13 commence an action in the name of the state to recover a forfeiture to the state of not
14 less than \$100 nor more than \$10,000 for each violation of sub. (3), (4) or (5).

15 **SECTION 25.** 100.21 (3) (a) of the statutes is amended to read:

16 100.21 (3) (a) Any person making an energy savings or safety claim shall, upon
17 written request by the department, submit information upon which the person relied
18 to substantiate the claim. The department of justice may request the department of
19 agriculture, trade and consumer protection to issue a written request under this
20 paragraph for information to substantiate an energy savings or safety claim. Failure
21 to submit information requested under this subsection is a violation of sub. (2) (a).

22 **SECTION 26.** 100.26 (1) of the statutes is amended to read:

23 100.26 (1) Any person who violates any provision of this chapter, except s.
24 100.18, or 100.20, 100.206 or 100.51, for which no specific penalty is prescribed shall

BILL

1 be fined not to exceed \$200, or imprisoned in the county jail not more than 6 months
2 or both.

3 **SECTION 27.** 100.26 (6) of the statutes is amended to read:

4 100.26 (6) The department, ~~the department of justice, after consulting with the~~
5 ~~department,~~ or any district attorney may commence an action in the name of the
6 state to recover a civil forfeiture to the state of not less than \$100 nor more than
7 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182 or 100.20
8 (6). ~~The department of agriculture, trade and consumer protection or any district~~
9 ~~attorney may commence an action in the name of the state to recover a civil forfeiture~~
10 ~~to the state of not less than \$100 nor more than \$10,000 for each violation of or an~~
11 order issued under s. 100.20.

12 **SECTION 28.** 100.264 (2) (intro.) of the statutes is amended to read:

13 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
14 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
15 100.20, ~~100.205, 100.207,~~ 100.21, 100.30 (3), 100.35, 100.44 or 100.46 or a rule
16 promulgated under one of those sections, the person shall be subject to a
17 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
18 defendant, for which the violation was imposed, was perpetrated against an elderly
19 person or disabled person and if the court finds that any of the following factors is
20 present:

21 **SECTION 29.** 100.264 (3) of the statutes is amended to read:

22 100.264 (3) PRIORITY FOR RESTITUTION. If the court orders restitution under s.
23 100.18 (11) (d), 100.182 (5) (a), 100.20 (6), ~~100.205 (7), 100.207 (6) (b) 1.~~ or 100.44 (5)
24 for a pecuniary or monetary loss suffered by a person, the court shall require that the

BILL

1 restitution be paid by the defendant before the defendant pays any forfeiture
2 imposed under this section.

3 **SECTION 30.** 100.28 of the statutes is renumbered 134.78, and 134.78 (4) (b) and
4 (c), as renumbered, are amended to read:

5 134.78 (4) (b) In lieu of or in addition to forfeitures under par. (a), the
6 department of justice may seek an injunction restraining any person from violating
7 this section.

8 (c) The department of justice, or any district attorney upon the request of the
9 department, may commence an action in the name of the state under par. (a) or (b).

10 **SECTION 31.** 100.50 of the statutes is renumbered 134.79, and 134.79 (6) (b) and
11 (c), as renumbered, are amended to read:

12 134.79 (6) (b) In lieu of or in addition to the remedy under par. (a), the
13 department of justice may seek an injunction restraining any person from violating
14 this section.

15 (c) The department of justice, or any district attorney upon the request of the
16 department, may commence an action in the name of the state under par. (a) or (b).

17 **SECTION 32.** 100.51 of the statutes is renumbered 134.85, and 134.85 (3) (a),
18 as renumbered, is amended to read:

19 134.85 (3) (a) The department of justice on behalf of the state or any person who
20 claims injury as a result of a violation of sub. (2) may bring an action for temporary
21 or permanent injunctive relief in any circuit court. It is no defense to an action under
22 this paragraph that an adequate remedy exists at law.

23 **SECTION 33.** 134.71 (12) of the statutes is amended to read:

24 134.71 (12) APPLICATIONS AND FORMS. The department of ~~agriculture, trade and~~
25 ~~consumer protection~~ justice shall develop applications and other forms required

BILL

1 under subs. (5) (intro.) and (8) (c). The department shall print a sufficient number
2 of applications and forms to provide to counties and municipalities for distribution
3 to pawnbrokers, secondhand article dealers and secondhand jewelry dealers at no
4 cost.

5 **SECTION 34.** 134.95 (2) of the statutes is amended to read:

6 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a
7 person for a violation under s. ~~100.171, 100.173, 100.174, 100.175, 100.177~~ 134.22,
8 134.68, 134.70, 134.71, 134.72, 134.74, 134.83 or 134.87 or ch. 136 or a rule
9 promulgated under these sections or that chapter, the person shall be subject to a
10 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
11 defendant, for which the fine or forfeiture was imposed, was perpetrated against an
12 elderly person or disabled person and if any of the factors under s. 100.264 (2) (a), (b)
13 or (c) is present.

14 **SECTION 35.** 134.95 (3) of the statutes is amended to read:

15 134.95 (3) PRIORITY FOR RESTITUTION. If the court orders restitution under s.
16 ~~100.171 (8), 100.173 (4) (a), 100.174 (7), 100.175 (7), 100.177 (15)~~ 134.22 (4) (a),
17 134.68 (7), 134.70 (15), 134.74 (8), 134.83 (7) or 134.87 (6) for a pecuniary or monetary
18 loss suffered by a person, the court shall require that the restitution be paid by the
19 defendant before the defendant pays any forfeiture imposed under this section.

20 **SECTION 36.** 134.99 (1) of the statutes is amended to read:

21 134.99 (1) Whoever is concerned in the commission of a violation of this
22 chapter, except s. 134.83, for which a forfeiture is imposed is a principal and may be
23 charged with and convicted of the violation although he or she did not directly
24 commit it and although the person who directly committed it has not been convicted
25 of the violation.

BILL

1 **SECTION 37.** 136.03 (title) of the statutes is amended to read:

2 **136.03 (title) Duties of the department of agriculture, trade and**
3 **consumer protection justice.**

4 **SECTION 38.** 136.03 (1) (intro.) of the statutes is amended to read:

5 136.03 (1) (intro.) The department of ~~agriculture, trade and consumer~~
6 ~~protection justice~~ shall investigate violations of this chapter and of rules and orders
7 issued under s. 136.04. The department of justice may subpoena persons and records
8 to facilitate its investigations, and may enforce compliance with such subpoenas as
9 provided in s. 885.12. The department of justice may in behalf of the state:

10 **SECTION 39.** 165.25 (4) (ar) of the statutes is repealed.

11 **SECTION 40.** 196.219 (3) (n) of the statutes is amended to read:

12 196.219 (3) (n) Provide telecommunications service in violation of s. ~~100.207~~
13 134.179.

14 **SECTION 41.** 344.576 (3) (a) 5. of the statutes is amended to read:

15 344.576 (3) (a) 5. The address and telephone number of the office of consumer
16 protection in the department of agriculture, trade and consumer protection justice.

17 **SECTION 42.** 344.576 (3) (c) of the statutes is amended to read:

18 344.576 (3) (c) The department of ~~agriculture, trade and consumer protection~~
19 ~~justice~~ shall promulgate rules specifying the form of the notice required under par.
20 (a), including the size of the paper and the type size and any highlighting of the
21 information described in par. (a). The rule may specify additional information that
22 must be included in the notice and the precise language that must be used.

23 **SECTION 43.** 344.579 (2) (intro.) of the statutes is amended to read:

24 344.579 (2) ENFORCEMENT. (intro.) The department of ~~agriculture, trade and~~
25 ~~consumer protection justice~~ shall investigate violations of ss. 344.574, 344.576 (1),

BILL

1 (2) and (3) (a) and (b), 344.577 and 344.578. The department of agriculture, trade
2 and consumer protection justice may on behalf of the state:

3 **SECTION 44.** 618.41 (6m) of the statutes is amended to read:

4 618.41 (6m) RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
5 of insurance to cover a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), shall comply
6 with s. 632.18 and the policy shall be on a form approved by the commissioner under
7 s. 631.20.

8 **SECTION 45.** 631.01 (1) (b) of the statutes is amended to read:

9 631.01 (1) (b) On business operations in this state if the contract is negotiated
10 outside this state and if the operations in this state are incidental or subordinate to
11 operations outside this state, unless the contract is for a policy of insurance to cover
12 a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), in which case the provisions set
13 forth in sub. (4m) apply; and

14 **SECTION 46.** 631.01 (4m) of the statutes is amended to read:

15 631.01 (4m) RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
16 of insurance to cover a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), shall comply
17 with s. 632.18 and the policy shall be on a form approved by the commissioner under
18 s. 631.20.

19 **SECTION 47.** 632.18 of the statutes is amended to read:

20 **632.18 Rustproofing warranties insurance.** A policy of insurance to cover
21 a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), shall fully cover the financial
22 integrity of the warranty.

23 **SECTION 48.** 704.90 (11) (title) of the statutes is amended to read:

24 704.90 (11) (title) DUTIES OF THE DEPARTMENT OF AGRICULTURE, TRADE AND
25 CONSUMER PROTECTION JUSTICE.

BILL

1 **SECTION 49.** 704.90 (11) (a) of the statutes is amended to read:

2 704.90 (11) (a) Except as provided in par. (c), the department of agriculture,
3 ~~trade and consumer protection justice~~ shall investigate alleged violations of this
4 section and rules promulgated under sub. (9). To facilitate its investigations, the
5 department of justice may subpoena persons and records and may enforce
6 compliance with the subpoenas as provided in s. 885.12.

7 **SECTION 50.** 704.90 (11) (b) of the statutes is amended to read:

8 704.90 (11) (b) Except as provided in par. (a), the department of justice may,
9 on behalf of the state, bring an action for temporary or permanent injunctive or other
10 relief in any court of competent jurisdiction for any violation of this section or any
11 rule promulgated under sub. (9).

12 **SECTION 51.** 707.49 (4) of the statutes is amended to read:

13 707.49 (4) SURETY BOND AND OTHER OPTIONS. Instead of placing deposits in an
14 escrow account, a developer may obtain a surety bond issued by a company
15 authorized to do business in this state, an irrevocable letter of credit or a similar
16 arrangement, in an amount which at all times is not less than the amount of the
17 deposits otherwise subject to the escrow requirements of this section. The bond,
18 letter of credit or similar arrangement shall be filed with the department of
19 ~~agriculture, trade and consumer protection justice~~ and made payable to the
20 department of ~~agriculture, trade and consumer protection justice~~ justice for the benefit of
21 aggrieved parties.

22 **SECTION 52.** 707.55 (10) of the statutes is amended to read:

23 707.55 (10) GIFTS AND PRIZES. A mail or coupon promotion sent to residents of
24 this state that offers any award, gift or prize for visiting a development or attending
25 any sales presentation shall comply with the requirements of s. ~~100.171~~ 134.74.

BILL

1 **SECTION 53.** 707.57 (2) of the statutes is amended to read:

2 707.57 (2) ~~DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION~~
3 JUSTICE AUTHORITY. (a) The department of ~~agriculture, trade and consumer~~
4 protection justice, or any district attorney upon informing the department of
5 ~~agriculture, trade and consumer protection justice~~, may commence an action in
6 circuit court in the name of the state to restrain by temporary or permanent
7 injunction any violation of this chapter. Before entry of final judgment, the court may
8 make such orders or judgments as may be necessary to restore to any person any
9 pecuniary loss suffered because of the acts or practices involved in the action if proof
10 of these acts or practices is submitted to the satisfaction of the court.

11 (b) The department of ~~agriculture, trade and consumer protection justice~~ may
12 conduct hearings, administer oaths, issue subpoenas and take testimony to aid in its
13 investigation of violations of this chapter.

14 **SECTION 54.** 707.57 (3) of the statutes is amended to read:

15 707.57 (3) **PENALTY.** Any person who violates this chapter shall be required to
16 forfeit not more than \$5,000 for each offense. Forfeitures under this subsection shall
17 be enforced by action on behalf of the state by the department of ~~agriculture, trade~~
18 ~~and consumer protection justice~~ or by the district attorney of the county where the
19 violation occurs.

20 **SECTION 55.** 779.93 (title) of the statutes is amended to read:

21 **779.93 (title) Duties of the department of ~~agriculture, trade and~~**
22 **~~consumer protection justice.~~**

23 **SECTION 56.** 779.93 (1) of the statutes is amended to read:

24 779.93 (1) The department of ~~agriculture, trade and consumer protection~~
25 justice shall investigate violations of this subchapter and attempts to circumvent

BILL

1 this subchapter. The department of agriculture, ~~trade and consumer protection~~
2 ~~justice~~ may subpoena persons and records to facilitate its investigations, and may
3 enforce compliance with such subpoenas as provided in s. 885.12.

4 **SECTION 57.** 779.93 (2) (intro.) of the statutes is amended to read:

5 779.93 (2) (intro.) The department of ~~agriculture, trade and consumer~~
6 ~~protection justice~~ may in behalf of the state or in behalf of any person who holds a
7 prepaid maintenance lien:

8 **SECTION 9104. Nonstatutory provisions; agriculture, trade and**
9 **consumer protection.**

10 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS.

11 (a) *Assets and liabilities.* On July 1, 2000, all assets and liabilities of the
12 department of agriculture, trade and consumer protection that are primarily related
13 to the consumer protection investigation and enforcement functions performed by
14 the department of justice under chapters 100, 134, 136, 344, 704, 707 and 779, 1993
15 stats., or are primarily related to programs or functions transferred to the
16 department of justice under this act, shall become the assets and liabilities of the
17 department of justice. The departments of justice and agriculture, trade and
18 consumer protection shall jointly determine these assets and liabilities and shall
19 jointly develop and implement a plan for the orderly transfer thereof. In the event
20 of any disagreement between the departments, the joint committee on finance shall
21 decide the question.

22 (b) *Employe transfers.* On July 1, 2000, 16.8 FTE positions in the department
23 of agriculture trade and consumer protection that are primarily related to the
24 consumer protection investigation and enforcement functions performed by the
25 department of justice under chapters 100, 134, 136, 344, 704, 707 and 779, 1993

BILL

1 stats., or are primarily related to programs or functions transferred to the
2 department of justice this act, and the incumbents holding these positions, as
3 determined by the joint committee on finance are transferred to the department of
4 justice, to be funded from the appropriation under section 20.455 (1) (a) of the
5 statutes.

6 (c) *Employe status.* Employes transferred under paragraph (b) have all the
7 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
8 statutes in the department of justice that they enjoyed in the department of
9 agriculture, trade and consumer protection immediately before the transfer.
10 Notwithstanding section 230.28 (4) of the statutes, no employe so transferred who
11 has attained permanent status in class is required to serve a probationary period.

12 (d) *Supplies and equipment.* On July 1, 2000, all tangible personal property,
13 including records, of the department of agriculture, trade and consumer protection
14 that are primarily related to the consumer protection investigation and enforcement
15 functions performed by the department of justice under chapters 100, 134, 136, 344,
16 704, 707 and 779, 1993 stats., or are primarily related to programs or functions
17 transferred to the department of justice under this act, are transferred to the
18 department of justice. The departments of justice and agriculture, trade and
19 consumer protection shall jointly identify the tangible personal property, including
20 records, and shall jointly develop and implement a plan for the orderly transfer
21 thereof. In the event of any disagreement between the departments, the joint
22 committee on finance shall decide the question.

23 (e) *Pending matters.* On July 1, 2000, any matter pending with the department
24 of agriculture, trade and consumer protection that is primarily related to the
25 consumer protection investigation and enforcement functions performed by the

BILL

1 department of justice under chapters 100, 134, 136, 344, 704, 707 and 779, 1993
2 stats., or are primarily related to programs or functions transferred to the
3 department of justice under this act, are transferred to the department of justice.
4 All materials submitted or actions taken by the department of agriculture, trade and
5 consumer protection with respect to the pending matter are considered as having
6 been submitted to or taken by the department of justice.

7 (f) *Contracts.* On July 1, 2000, all contracts entered into by the department of
8 agriculture, trade and consumer protection or the department of justice that are
9 primarily related to the consumer protection investigation and enforcement
10 functions performed by the department of justice under chapters 100, 134, 136, 344,
11 704, 707 and 779, 1993 stats., or are primarily related to programs or functions
12 transferred to the department of justice under this act, and that are in effect on the
13 effective date of this paragraph, remain in effect and are transferred to the
14 department of justice. The departments of justice and agriculture, trade and
15 consumer protection shall jointly identify these contracts and shall jointly develop
16 and implement a plan for the orderly transfer thereof. In the event of any
17 disagreement between the departments, the joint committee on finance shall decide
18 the question. The department of justice shall carry out the obligations under these
19 contracts until the obligations are modified or rescinded by the department of justice
20 to the extent allowed under the contract.

21 (g) *Rules and orders.* All rules promulgated by the department of agriculture,
22 trade and consumer protection or by the department of justice that are in effect on
23 the effective date of this paragraph and that are primarily related to the consumer
24 protection investigation and enforcement functions performed by the department of
25 justice under chapter 344, 1993 stats., or are primarily related to programs or

BILL

1 functions transferred to the department of justice under this act, remain in effect
2 until their specified expiration date or until amended or repealed by the department
3 of justice. All orders issued by the department of agriculture, trade and consumer
4 protection or by the department of justice that are in effect on the effective date of
5 this paragraph and that are primarily related to the consumer protection
6 investigation and enforcement functions performed by the department of justice
7 under chapter 344, 1993 stats., or are primarily related to programs or functions
8 transferred to the department of justice under this act, remain in effect until their
9 specified expiration date or until modified or rescinded by the department of justice.

10 **SECTION 9204. Appropriation changes; agriculture, trade and**
11 **consumer protection.**

12 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS. In the schedule
13 under section 20.005 (3) of the statutes for the appropriation to the department of
14 agriculture, trade and consumer protection under section 20.115 (1) (a) of the
15 statutes, as affected by the acts of 1999, the dollar amount is decreased by \$953,200
16 for fiscal year 2000–01 to decrease funding for the purpose for which the
17 appropriation is made.

18 **SECTION 9230. Appropriation changes; justice.**

19 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS. In the schedule
20 under section 20.005 (3) of the statutes for the appropriation to the department of
21 justice under section 20.455 (1) (a) of the statutes, as affected by the acts of 1999, the
22 dollar amount is increased by \$953,200 for fiscal year 2000–01 to increase funding
23 for the purpose for which the appropriation is made.

24 **SECTION 9404. Effective dates; agriculture, trade and consumer**
25 **protection.**

Smith, Irma

To: Burnett, Douglas

Subject: This draft is being sent via e-mail at your request. If you have any questions, please call the drafting attorney. Thank you. Irma



99-4441/1



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-4441/1
PJD:jlg:ch

1999 BILL

1 **AN ACT to repeal** 100.207 (6) (em) and 165.25 (4) (ar); **to renumber** 100.207
2 (title) and (1) to (5); **to renumber and amend** 100.171, 100.173, 100.174,
3 100.175, 100.177, 100.205, 100.206, 100.207 (6) (b), (c), (e) and (f), 100.209,
4 100.28, 100.50 and 100.51; **to amend** 20.115 (1) (hm), 20.455 (1) (hm), 60.23
5 (24), 100.178 (1) (c), 100.178 (4), 100.178 (7), 100.18 (8), 100.18 (11) (d), 100.182
6 (5) (a), 100.182 (5) (b), 100.2095 (6) (b), 100.2095 (6) (c), 100.21 (3) (a), 100.26
7 (1), 100.26 (6), 100.264 (2) (intro.), 100.264 (3), 134.71 (12), 134.95 (2), 134.95
8 (3), 134.99 (1), 136.03 (title), 136.03 (1) (intro.), 196.219 (3) (n), 344.576 (3) (a)
9 5., 344.576 (3) (c), 344.579 (2) (intro.), 618.41 (6m), 631.01 (1) (b), 631.01 (4m),
10 632.18, 704.90 (11) (title), 704.90 (11) (a), 704.90 (11) (b), 707.49 (4), 707.55 (10),
11 707.57 (2), 707.57 (3), 779.93 (title), 779.93 (1) and 779.93 (2) (intro.); and **to**
12 **create** 100.18 (11) (b) 1. of the statutes; **relating to:** transferring certain
13 consumer protection functions performed by the department of agriculture,

BILL

1 trade and consumer protection to the department of justice, granting
2 rule-making authority and making appropriations.

Analysis by the Legislative Reference Bureau**STATE GOVERNMENT****OTHER STATE GOVERNMENT**

Under current law, the department of agriculture, trade and consumer protection (DATCP) administers and enforces certain consumer protection and trade practice laws. In administering and enforcing these laws, DATCP either has exclusive authority or joint authority, with the department of justice (DOJ) having a secondary role. These laws include laws relating to fraudulent drug advertising, methods of competition and trade practices, motor vehicle rustproofing warranties, telecommunications services, sale of cleaning agents and water conditioners containing phosphorus, sale of products containing or made with ozone-depleting substances, ticket refunds, dating service contracts, fitness center and weight reduction center contracts, pawnbrokers and secondhand article and jewelry dealers, prize notices, mail-order sales, time-share ownerships, motor fuel dealerships, prepaid maintenance liens, self-service storage facilities, rental of private passenger vehicles, future service plans, and cable television subscriber rights.

This bill transfers either all of or part of the administrative and enforcement authority for these laws that DATCP has under current law to DOJ. For those laws for which DATCP and DOJ have joint authority under the bill, DATCP has a secondary role in their enforcement and administration.

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:

3 **SECTION 1.** 20.115 (1) (hm) of the statutes is amended to read:

4 20.115 (1) (hm) *Ozone-depleting refrigerants and products regulation.* The
5 amounts in the schedule for administration of the mobile air conditioner servicing
6 and refrigerant recycling programs and for responsibilities under ss. ~~s.~~ 100.45 and
7 ~~100.50~~ relating to sales and labeling of products containing or made with
8 ozone-depleting substances. All moneys received from fees under s. 100.45 (5) (a) 3.
9 and (5m) shall be credited to this appropriation.

BILL

1 **SECTION 2.** 20.455 (1) (hm) of the statutes is amended to read:

2 20.455 (1) (hm) *Restitution.* All moneys received by the department to provide
3 restitution to victims when ordered by the court as the result of prosecutions under
4 s. 49.49 and chs. 100, 133, 134, 281 to 285 and 289 to 299 and under a federal
5 antitrust law for the purpose of providing restitution to victims of the violation when
6 ordered by the court.

7 **SECTION 3.** 60.23 (24) of the statutes is amended to read:

8 60.23 (24) CABLE TELEVISION. Enact and enforce an ordinance, and provide
9 forfeitures for a violation of that ordinance, that is similar to s. ~~100.209~~ 134.42, or
10 that gives a cable service subscriber greater rights than the rights under s. ~~100.209~~
11 134.42 (2).

12 **SECTION 4.** 100.171 of the statutes is renumbered 134.74, and 134.74 (7) (b) and
13 (8) (intro.), as renumbered, are amended to read:

14 134.74 (7) (b) Whoever intentionally violates this section may be fined not more
15 than \$10,000 or imprisoned for not more than 3 years or both. A person intentionally
16 violates this section if the violation occurs after the department of justice or a district
17 attorney has notified the person by certified mail that the person is in violation of this
18 section.

19 (8) ENFORCEMENT. (intro.) The department of justice shall investigate
20 violations of this section. The department of justice or any district attorney may on
21 behalf of the state:

22 **SECTION 5.** 100.173 of the statutes is renumbered 134.22, and 134.22 (4) (intro.)
23 and (a), as renumbered, are amended to read:

BILL

1 134.22 (4) (intro.) The department of justice shall investigate violations of this
2 section. The department of justice, or any district attorney upon informing the
3 department, may, on behalf of the state, do any of the following:

4 (a) Bring an action for temporary or permanent injunctive relief in any court
5 of competent jurisdiction for any violation of this section. The relief sought by the
6 department of justice or district attorney may include the payment by a promoter
7 into an escrow account of an amount estimated to be sufficient to pay for ticket
8 refunds. The court may, upon entry of final judgment, award restitution when
9 appropriate to any person suffering loss because of violations of this section if proof
10 of such loss is submitted to the satisfaction of the court.

11 **SECTION 6.** 100.174 of the statutes is renumbered 134.83, and 134.83 (5) (intro.)
12 and (6), as renumbered, are amended to read:

13 134.83 (5) (intro.) The department of justice or any district attorney may on
14 behalf of the state:

15 (6) The department of justice and the department of agriculture, trade and
16 consumer protection shall investigate cooperate in the investigation of violations of
17 and enforce in the enforcement of this section.

18 **SECTION 7.** 100.175 of the statutes is renumbered 134.68, and 134.68 (5) (a)
19 (intro.) and (b) and (7) (a) (intro.) and (b), as amended, are amended to read:

20 134.68 (5) (a) (intro.) No person may collect or by contract require a buyer to
21 pay more than \$100 for dating services before the buyer receives or has the
22 opportunity to receive those services unless the person selling dating services
23 establishes proof of financial responsibility by maintaining any of the following
24 commitments approved by the department of justice in an amount not less than
25 \$25,000:

BILL

1 (b) The commitment described in par. (a) shall be established in favor of or made
2 payable to the state, for the benefit of any buyer who does not receive a refund under
3 the contractual provision described in sub. (3). The person selling dating services
4 shall file with the department of justice any agreement, instrument or other
5 document necessary to enforce the commitment against the person selling dating
6 services or any relevant 3rd party, or both.

7 **(7)** (a) (intro.) The department of justice or any district attorney may on behalf
8 of the state:

9 (b) The department of justice may bring an action in circuit court to recover on
10 a financial commitment maintained under sub. (5) against a person selling dating
11 services or relevant 3rd party, or both, on behalf of any buyer who does not receive
12 a refund due under the contractual provision described in sub. (3).

13 **SECTION 8.** 100.177 of the statutes is renumbered 134.70, and 134.70 (13) (b)
14 1. (intro.), 2. and 3. and (15) (a) (intro.) and (am), as renumbered, are amended to
15 read:

16 134.70 **(13)** (b) 1. (intro.) Except as provided in subd. 3., a center may establish
17 proof of financial responsibility required under par. (a) by maintaining an
18 established escrow account approved by the department of justice for all amounts
19 received from buyers in advance of the receipt of services or by maintaining any of
20 the following commitments approved by the department of justice in an amount not
21 less than \$25,000, subject to subd. 2.:

22 2. The commitment described in subd. 1. shall be established in favor of or made
23 payable to the state, for the benefit of any buyer who does not receive a refund under
24 sub. (11) (a). The center shall file with the department of justice any agreement,

BILL

1 instrument or other document necessary to enforce the commitment against the
2 center or any relevant 3rd party, or both.

3 3. For 6 or more weight reduction centers owned or operated under the same
4 trade name, the amount of the financial commitment under pars. (a) and (b) for those
5 weight reduction centers is not required to exceed a total of \$150,000. For a weight
6 reduction center that submits to the department of justice evidence satisfactory to
7 the department that the weight reduction center collected a total of \$50,000 or more
8 but less than \$100,000 from buyers of its center services in the previous calendar
9 year, the amount of the financial commitment under pars. (a) and (b) is not required
10 to exceed \$10,000. For a weight reduction center that submits to the department of
11 justice evidence satisfactory to the department that the weight reduction center
12 collected less than a total of \$50,000 from buyers of its center services in the previous
13 calendar year, the amount of the financial commitment under pars. (a) and (b) is not
14 required to exceed \$5,000.

15 (15) (a) (intro.) The department of justice and the department of agriculture,
16 trade and consumer protection shall cooperatively investigate violations of this
17 section or s. 100.178 (2) or (4). The department of justice may on behalf of the state:

18 (am) The department of justice may bring an action in circuit court to recover
19 on a financial commitment maintained under sub. (13) against a center or relevant
20 3rd party, or both, on behalf of any buyer who does not receive a refund due under
21 sub. (11) (a).

22 **SECTION 9.** 100.178 (1) (c) of the statutes is amended to read:

23 100.178 (1) (c) "Fitness center" has the meaning given under s. ~~100.177~~ 134.70

24 (1) (c).

25 **SECTION 10.** 100.178 (4) of the statutes is amended to read:

BILL

1 100.178 (4) A fitness center shall post a notice or notices on its premises stating
2 the requirements of sub. (2) and the penalty for a violation of sub. (2) under s. 100.177
3 134.70 (15) (a). The notice shall comply with the rules promulgated by the
4 department under sub. (5) (d).

5 **SECTION 11.** 100.178 (7) of the statutes is amended to read:

6 100.178 (7) A violation of sub. (2) or (4) is subject to s. ~~100.177~~ 134.70 (15) (a).
7 This subsection or s. ~~100.177~~ 134.70 (15) (a) does not preclude a person injured as a
8 result of a violation of this section from pursuing any other available equitable or
9 legal relief.

10 **SECTION 12.** 100.18 (8) of the statutes is amended to read:

11 100.18 (8) Every wholesaler and every other person selling or distributing
12 motor fuel in this state shall keep posted in a conspicuous place, most accessible to
13 the public at his or her place of business, and on every pump from which delivery is
14 made directly into the fuel tank attached to a motor vehicle, a placard showing the
15 net selling price per gallon of all grades of motor fuel and the amount of all taxes per
16 gallon thereon. On pumps or other dispensing equipment from which motor fuel is
17 sold and delivered directly into fuel supply tanks attached to motor vehicles, such
18 posting shall be in figures not less than one inch high, except that no such placard
19 shall be required on a computer pump whereon the total net selling price per gallon
20 including all taxes is legibly shown on its face. Except for sales to drivers of motor
21 vehicles used by physically disabled persons under s. ~~100.51~~ 134.85 (5), all sales shall
22 be made at the posted price. Delivery slips shall also show the net selling price per
23 gallon of all grades of motor fuel and the amount of all taxes per gallon thereon. If
24 the wholesaler or person has more than one place of business in this state, the
25 wholesaler or person shall post that placard at all of his or her places of business.

BILL

1 All prices posted shall remain in effect for at least 24 hours after they are posted.
2 It shall be considered deceptive advertising to advertise or represent in any manner
3 the price of motor fuel offered for sale at retail to be less than the price so posted on
4 each pump.

5 **SECTION 13.** 100.18 (11) (b) 1. of the statutes is created to read:

6 100.18 (11) (b) 1. The department of agriculture, trade and consumer
7 protection may request that the department of justice commence an action to enjoin
8 a violation of this section. If the department of agriculture, trade and consumer
9 protection so requests, the department of justice shall proceed with the requested
10 action within a reasonable period of time or provide the department of agriculture,
11 trade and consumer protection with a brief statement of its reasons for not
12 proceeding. The department of justice shall further provide the department of
13 agriculture, trade and consumer protection with periodic summaries of all activity
14 under this section.

15 **SECTION 14.** 100.18 (11) (d) of the statutes is amended to read:

16 100.18 (11) (d) The department or the department of justice, ~~after consulting~~
17 ~~with the department,~~ or any district attorney, upon informing the department of
18 justice, may commence an action in circuit court in the name of the state to restrain
19 by temporary or permanent injunction any violation of this section. The court may
20 in its discretion, prior to entry of final judgment, make such orders or judgments as
21 may be necessary to restore to any person any pecuniary loss suffered because of the
22 acts or practices involved in the action, provided proof thereof is submitted to the
23 satisfaction of the court. The department ~~and the department~~ of justice may
24 subpoena persons and require the production of books and other documents, and the
25 department of justice may request the department of agriculture, trade and

BILL

1 consumer protection to exercise its authority under par. (c) to aid in the investigation
2 of alleged violations of this section.

3 **SECTION 15.** 100.182 (5) (a) of the statutes is amended to read:

4 100.182 (5) (a) Any district attorney, after informing the department of justice,
5 or the department of agriculture, trade and consumer protection or the department
6 of justice may seek a temporary or permanent injunction in circuit court to restrain
7 any violation of this section. Prior to entering a final judgment the court may award
8 damages to any person suffering monetary loss because of a violation. The
9 department of justice may subpoena any person or require the production of any
10 document to aid in investigating alleged violations of this section.

11 **SECTION 16.** 100.182 (5) (b) of the statutes is amended to read:

12 100.182 (5) (b) In lieu of instituting or continuing an action under this
13 subsection, the department or the department of justice may accept a written
14 assurance from a violator of this section that the violation has ceased. If the terms
15 of the assurance so provide, its acceptance by ~~the~~ either department prevents the
16 other department and all district attorneys from prosecuting the violation. An
17 assurance is not evidence of a violation of this section but violation of an assurance
18 is subject to the penalties and remedies of violating this section.

19 **SECTION 17.** 100.205 of the statutes is renumbered 134.178, and 134.178 (7)
20 and (8), as renumbered, are amended to read:

21 134.178 (7) The department of justice, or any district attorney on informing the
22 department of justice, may commence an action in circuit court in the name of the
23 state to restrain by temporary or permanent injunction any violation of this section.
24 The court may, before entry of final judgment and after satisfactory proof, make
25 orders or judgments necessary to restore to any person any pecuniary loss suffered

BILL

1 because of a violation of this section. The department of justice may conduct
2 hearings, administer oaths, issue subpoenas and take testimony to aid in its
3 investigation of violations of this section.

4 (8) The department of justice or any district attorney may commence an action
5 in the name of the state to recover a forfeiture to the state of not more than \$10,000
6 for each violation of this section.

7 **SECTION 18.** 100.206 of the statutes is renumbered 134.24, and 134.24 (2) (a)
8 (intro.), as renumbered, is amended to read:

9 134.24 (2) (a) (intro.) File annually for public inspection with the department
10 of justice all of the following:

11 **SECTION 19.** 100.207 (title) and (1) to (5) of the statutes are renumbered
12 134.179 (title) and (1) to (5).

13 **SECTION 20.** 100.207 (6) (b), (c), (e) and (f) of the statutes are renumbered
14 134.179 (6) (b), (c), (e) and (f), and 134.179 (6) (b) 1. and 2., (c) and (e), as renumbered,
15 are amended to read:

16 134.179 (6) (b) 1. The department of justice, ~~after consulting with~~ on its own
17 initiative or at the request of the department of agriculture, trade and consumer
18 protection, or any district attorney upon informing the department of ~~agriculture,~~
19 ~~trade and consumer protection~~ justice, may commence an action in circuit court in
20 the name of the state to restrain by temporary or permanent injunction any violation
21 of this section. Injunctive relief may include an order directing telecommunications
22 providers, as defined in s. 196.01 (8p), to discontinue telecommunications service
23 provided to a person violating this section or ch. 196. Before entry of final judgment,
24 the court may make such orders or judgments as may be necessary to restore to any

BILL

1 person any pecuniary loss suffered because of the acts or practices involved in the
2 action if proof of these acts or practices is submitted to the satisfaction of the court.

3 2. The department of agriculture, trade and consumer protection may exercise
4 its authority under ss. 93.14 to 93.16 and 100.18 (11) (c) to administer this section.
5 The department ~~and the department~~ of justice may subpoena persons and require
6 the production of books and other documents, and the department of justice may
7 request the department of agriculture, trade and consumer protection to exercise its
8 authority to aid in the investigation of alleged violations of this section.

9 (c) Any person who violates subs. (2) to (4) shall be required to forfeit not less
10 than \$25 nor more than \$5,000 for each offense. Forfeitures under this paragraph
11 shall be enforced by the department of justice, ~~after consulting with~~ on its own
12 initiative or at the request of the department of agriculture, trade and consumer
13 protection, or, upon informing the department of justice, by the district attorney of
14 the county where the violation occurs.

15 (e) ~~Subject to par. (em), the~~ The department of agriculture, trade and consumer
16 protection, in consultation with the department of justice, shall promulgate rules
17 under this section.

18 **SECTION 21.** 100.207 (6) (em) of the statutes is repealed.

19 **SECTION 22.** 100.209 of the statutes is renumbered 134.42, and 134.42 (3) and
20 (4) (b), as renumbered, are amended to read:

21 134.42 (3) RULES AND LOCAL ORDINANCES ALLOWED. This section does not prohibit
22 the department of agriculture, trade and consumer protection from promulgating a
23 rule or from issuing an order consistent with its authority under ~~this chapter~~ ch. 100
24 that gives a subscriber greater rights than the rights under sub. (2) or prohibit a city,

BILL

1 village or town from enacting an ordinance that gives a subscriber greater rights
2 than the rights under sub. (2).

3 (4) (b) The ~~department~~ attorney general and the district attorneys of this state
4 have concurrent authority to institute civil proceedings under this section.

5 **SECTION 23.** 100.2095 (6) (b) of the statutes is amended to read:

6 100.2095 (6) (b) The department of justice may commence an action in the
7 name of the state to restrain by temporary or permanent injunction a violation of sub.
8 (3), (4) or (5). Before entry of final judgment, the court may make any necessary
9 orders to restore to any person any pecuniary loss suffered by the person because of
10 the violation.

11 **SECTION 24.** 100.2095 (6) (c) of the statutes is amended to read:

12 100.2095 (6) (c) The department of justice or any district attorney may
13 commence an action in the name of the state to recover a forfeiture to the state of not
14 less than \$100 nor more than \$10,000 for each violation of sub. (3), (4) or (5).

15 **SECTION 25.** 100.21 (3) (a) of the statutes is amended to read:

16 100.21 (3) (a) Any person making an energy savings or safety claim shall, upon
17 written request by the department, submit information upon which the person relied
18 to substantiate the claim. The department of justice may request the department of
19 agriculture, trade and consumer protection to issue a written request under this
20 paragraph for information to substantiate an energy savings or safety claim. Failure
21 to submit information requested under this subsection is a violation of sub. (2) (a).

22 **SECTION 26.** 100.26 (1) of the statutes is amended to read:

23 100.26 (1) Any person who violates any provision of this chapter, except s.
24 100.18, or 100.20, 100.206 or 100.51, for which no specific penalty is prescribed shall

BILL

1 be fined not to exceed \$200, or imprisoned in the county jail not more than 6 months
2 or both.

3 **SECTION 27.** 100.26 (6) of the statutes is amended to read:

4 100.26 (6) The department, ~~the department of justice, after consulting with the~~
5 ~~department,~~ or any district attorney may commence an action in the name of the
6 state to recover a civil forfeiture to the state of not less than \$100 nor more than
7 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182 or 100.20
8 (6). ~~The department of agriculture, trade and consumer protection or any district~~
9 ~~attorney may commence an action in the name of the state to recover a civil forfeiture~~
10 ~~to the state of not less than \$100 nor more than \$10,000 for each violation of or an~~
11 order issued under s. 100.20.

12 **SECTION 28.** 100.264 (2) (intro.) of the statutes is amended to read:

13 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
14 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
15 100.20, ~~100.205, 100.207,~~ 100.21, 100.30 (3), 100.35, 100.44 or 100.46 or a rule
16 promulgated under one of those sections, the person shall be subject to a
17 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
18 defendant, for which the violation was imposed, was perpetrated against an elderly
19 person or disabled person and if the court finds that any of the following factors is
20 present:

21 **SECTION 29.** 100.264 (3) of the statutes is amended to read:

22 100.264 (3) PRIORITY FOR RESTITUTION. If the court orders restitution under s.
23 100.18 (11) (d), 100.182 (5) (a), 100.20 (6), ~~100.205 (7), 100.207 (6) (b) 1,~~ or 100.44 (5)
24 for a pecuniary or monetary loss suffered by a person, the court shall require that the

BILL

1 restitution be paid by the defendant before the defendant pays any forfeiture
2 imposed under this section.

3 **SECTION 30.** 100.28 of the statutes is renumbered 134.78, and 134.78(4)(b) and
4 (c), as renumbered, are amended to read:

5 134.78 (4) (b) In lieu of or in addition to forfeitures under par. (a), the
6 department of justice may seek an injunction restraining any person from violating
7 this section.

8 (c) The department of justice, or any district attorney upon the request of the
9 department, may commence an action in the name of the state under par. (a) or (b).

10 **SECTION 31.** 100.50 of the statutes is renumbered 134.79, and 134.79(6)(b) and
11 (c), as renumbered, are amended to read:

12 134.79 (6) (b) In lieu of or in addition to the remedy under par. (a), the
13 department of justice may seek an injunction restraining any person from violating
14 this section.

15 (c) The department of justice, or any district attorney upon the request of the
16 department, may commence an action in the name of the state under par. (a) or (b).

17 **SECTION 32.** 100.51 of the statutes is renumbered 134.85, and 134.85 (3) (a),
18 as renumbered, is amended to read:

19 134.85 (3) (a) The department of justice on behalf of the state or any person who
20 claims injury as a result of a violation of sub. (2) may bring an action for temporary
21 or permanent injunctive relief in any circuit court. It is no defense to an action under
22 this paragraph that an adequate remedy exists at law.

23 **SECTION 33.** 134.71 (12) of the statutes is amended to read:

24 134.71 (12) APPLICATIONS AND FORMS. The department of ~~agriculture, trade and~~
25 ~~consumer protection~~ justice shall develop applications and other forms required

BILL

1 under subs. (5) (intro.) and (8) (c). The department shall print a sufficient number
2 of applications and forms to provide to counties and municipalities for distribution
3 to pawnbrokers, secondhand article dealers and secondhand jewelry dealers at no
4 cost.

5 **SECTION 34.** 134.95 (2) of the statutes is amended to read:

6 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a
7 person for a violation under s. ~~100.171, 100.173, 100.174, 100.175, 100.177~~ 134.22,
8 134.68, 134.70, 134.71, 134.72, 134.74, 134.83 or 134.87 or ch. 136 or a rule
9 promulgated under these sections or that chapter, the person shall be subject to a
10 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
11 defendant, for which the fine or forfeiture was imposed, was perpetrated against an
12 elderly person or disabled person and if any of the factors under s. 100.264 (2) (a), (b)
13 or (c) is present.

14 **SECTION 35.** 134.95 (3) of the statutes is amended to read:

15 134.95 (3) PRIORITY FOR RESTITUTION. If the court orders restitution under s.
16 ~~100.171 (8), 100.173 (4) (a), 100.174 (7), 100.175 (7), 100.177 (15)~~ 134.22 (4) (a),
17 134.68 (7), 134.70 (15), 134.74 (8), 134.83 (7) or 134.87 (6) for a pecuniary or monetary
18 loss suffered by a person, the court shall require that the restitution be paid by the
19 defendant before the defendant pays any forfeiture imposed under this section.

20 **SECTION 36.** 134.99 (1) of the statutes is amended to read:

21 134.99 (1) Whoever is concerned in the commission of a violation of this
22 chapter, except s. 134.83, for which a forfeiture is imposed is a principal and may be
23 charged with and convicted of the violation although he or she did not directly
24 commit it and although the person who directly committed it has not been convicted
25 of the violation.

BILL

1 **SECTION 37.** 136.03 (title) of the statutes is amended to read:

2 **136.03** (title) **Duties of the department of agriculture, trade and**
3 **consumer protection justice.**

4 **SECTION 38.** 136.03 (1) (intro.) of the statutes is amended to read:

5 136.03 (1) (intro.) The department of ~~agriculture, trade and consumer~~
6 ~~protection justice~~ shall investigate violations of this chapter and of rules and orders
7 issued under s. 136.04. The department of justice may subpoena persons and records
8 to facilitate its investigations, and may enforce compliance with such subpoenas as
9 provided in s. 885.12. The department of justice may in behalf of the state:

10 **SECTION 39.** 165.25 (4) (ar) of the statutes is repealed.

11 **SECTION 40.** 196.219 (3) (n) of the statutes is amended to read:

12 196.219 (3) (n) Provide telecommunications service in violation of s. ~~100.207~~
13 134.179.

14 **SECTION 41.** 344.576 (3) (a) 5. of the statutes is amended to read:

15 344.576 (3) (a) 5. The address and telephone number of the office of consumer
16 protection in the department of agriculture, trade and consumer protection justice.

17 **SECTION 42.** 344.576 (3) (c) of the statutes is amended to read:

18 344.576 (3) (c) The department of ~~agriculture, trade and consumer protection~~
19 ~~justice~~ shall promulgate rules specifying the form of the notice required under par.
20 (a), including the size of the paper and the type size and any highlighting of the
21 information described in par. (a). The rule may specify additional information that
22 must be included in the notice and the precise language that must be used.

23 **SECTION 43.** 344.579 (2) (intro.) of the statutes is amended to read:

24 344.579 (2) ENFORCEMENT. (intro.) The department of ~~agriculture, trade and~~
25 ~~consumer protection justice~~ shall investigate violations of ss. 344.574, 344.576 (1),

BILL

1 (2) and (3) (a) and (b), 344.577 and 344.578. The department of agriculture, trade
2 and consumer protection justice may on behalf of the state:

3 **SECTION 44.** 618.41 (6m) of the statutes is amended to read:

4 618.41 (6m) RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
5 of insurance to cover a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), shall comply
6 with s. 632.18 and the policy shall be on a form approved by the commissioner under
7 s. 631.20.

8 **SECTION 45.** 631.01 (1) (b) of the statutes is amended to read:

9 631.01 (1) (b) On business operations in this state if the contract is negotiated
10 outside this state and if the operations in this state are incidental or subordinate to
11 operations outside this state, unless the contract is for a policy of insurance to cover
12 a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), in which case the provisions set
13 forth in sub. (4m) apply; and

14 **SECTION 46.** 631.01 (4m) of the statutes is amended to read:

15 631.01 (4m) RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
16 of insurance to cover a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), shall comply
17 with s. 632.18 and the policy shall be on a form approved by the commissioner under
18 s. 631.20.

19 **SECTION 47.** 632.18 of the statutes is amended to read:

20 **632.18 Rustproofing warranties insurance.** A policy of insurance to cover
21 a warranty, as defined in s. ~~100.205~~ 134.178 (1) (g), shall fully cover the financial
22 integrity of the warranty.

23 **SECTION 48.** 704.90 (11) (title) of the statutes is amended to read:

24 704.90 (11) (title) DUTIES OF THE DEPARTMENT OF AGRICULTURE, TRADE AND
25 ~~CONSUMER PROTECTION JUSTICE.~~

BILL

1 **SECTION 49.** 704.90 (11) (a) of the statutes is amended to read:

2 704.90 (11) (a) Except as provided in par. (c), the department of ~~agriculture,~~
3 ~~trade and consumer protection justice~~ shall investigate alleged violations of this
4 section and rules promulgated under sub. (9). To facilitate its investigations, the
5 department of justice may subpoena persons and records and may enforce
6 compliance with the subpoenas as provided in s. 885.12.

7 **SECTION 50.** 704.90 (11) (b) of the statutes is amended to read:

8 704.90 (11) (b) Except as provided in par. (a), the department of justice may,
9 on behalf of the state, bring an action for temporary or permanent injunctive or other
10 relief in any court of competent jurisdiction for any violation of this section or any
11 rule promulgated under sub. (9).

12 **SECTION 51.** 707.49 (4) of the statutes is amended to read:

13 707.49 (4) **SURETY BOND AND OTHER OPTIONS.** Instead of placing deposits in an
14 escrow account, a developer may obtain a surety bond issued by a company
15 authorized to do business in this state, an irrevocable letter of credit or a similar
16 arrangement, in an amount which at all times is not less than the amount of the
17 deposits otherwise subject to the escrow requirements of this section. The bond,
18 letter of credit or similar arrangement shall be filed with the department of
19 ~~agriculture, trade and consumer protection justice~~ and made payable to the
20 department of ~~agriculture, trade and consumer protection justice~~ justice for the benefit of
21 aggrieved parties.

22 **SECTION 52.** 707.55 (10) of the statutes is amended to read:

23 707.55 (10) **GIFTS AND PRIZES.** A mail or coupon promotion sent to residents of
24 this state that offers any award, gift or prize for visiting a development or attending
25 any sales presentation shall comply with the requirements of s. ~~100.171~~ 134.74.

BILL

1 **SECTION 53.** 707.57 (2) of the statutes is amended to read:

2 707.57 (2) ~~DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION~~
3 JUSTICE AUTHORITY. (a) The department of ~~agriculture, trade and consumer~~
4 ~~protection~~ justice, or any district attorney upon informing the department of
5 ~~agriculture, trade and consumer protection~~ justice, may commence an action in
6 circuit court in the name of the state to restrain by temporary or permanent
7 injunction any violation of this chapter. Before entry of final judgment, the court may
8 make such orders or judgments as may be necessary to restore to any person any
9 pecuniary loss suffered because of the acts or practices involved in the action if proof
10 of these acts or practices is submitted to the satisfaction of the court.

11 (b) The department of ~~agriculture, trade and consumer protection~~ justice may
12 conduct hearings, administer oaths, issue subpoenas and take testimony to aid in its
13 investigation of violations of this chapter.

14 **SECTION 54.** 707.57 (3) of the statutes is amended to read:

15 707.57 (3) PENALTY. Any person who violates this chapter shall be required to
16 forfeit not more than \$5,000 for each offense. Forfeitures under this subsection shall
17 be enforced by action on behalf of the state by the department of ~~agriculture, trade~~
18 ~~and consumer protection~~ justice or by the district attorney of the county where the
19 violation occurs.

20 **SECTION 55.** 779.93 (title) of the statutes is amended to read:

21 **779.93** (title) **Duties of the department of ~~agriculture, trade and~~**
22 **~~consumer protection~~ justice.**

23 **SECTION 56.** 779.93 (1) of the statutes is amended to read:

24 779.93 (1) The department of ~~agriculture, trade and consumer protection~~
25 justice shall investigate violations of this subchapter and attempts to circumvent

BILL

1 this subchapter. The department of ~~agriculture, trade and consumer protection~~
2 justice may subpoena persons and records to facilitate its investigations, and may
3 enforce compliance with such subpoenas as provided in s. 885.12.

4 **SECTION 57.** 779.93 (2) (intro.) of the statutes is amended to read:

5 779.93 (2) (intro.) The department of ~~agriculture, trade and consumer~~
6 protection justice may in behalf of the state or in behalf of any person who holds a
7 prepaid maintenance lien:

8 **SECTION 9104. Nonstatutory provisions; agriculture, trade and**
9 **consumer protection.**

10 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS.

11 (a) *Assets and liabilities.* On July 1, 2000, all assets and liabilities of the
12 department of agriculture, trade and consumer protection that are primarily related
13 to the consumer protection investigation and enforcement functions performed by
14 the department of justice under chapters 100, 134, 136, 344, 704, 707 and 779, 1993
15 stats., or are primarily related to programs or functions transferred to the
16 department of justice under this act, shall become the assets and liabilities of the
17 department of justice. The departments of justice and agriculture, trade and
18 consumer protection shall jointly determine these assets and liabilities and shall
19 jointly develop and implement a plan for the orderly transfer thereof. In the event
20 of any disagreement between the departments, the joint committee on finance shall
21 decide the question.

22 (b) *Employee transfers.* On July 1, 2000, 16.8 FTE positions in the department
23 of agriculture trade and consumer protection that are primarily related to the
24 consumer protection investigation and enforcement functions performed by the
25 department of justice under chapters 100, 134, 136, 344, 704, 707 and 779, 1993

BILL

1 stats., or are primarily related to programs or functions transferred to the
2 department of justice this act, and the incumbents holding these positions, as
3 determined by the joint committee on finance are transferred to the department of
4 justice, to be funded from the appropriation under section 20.455 (1) (a) of the
5 statutes.

6 (c) *Employe status.* Employes transferred under paragraph (b) have all the
7 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
8 statutes in the department of justice that they enjoyed in the department of
9 agriculture, trade and consumer protection immediately before the transfer.
10 Notwithstanding section 230.28 (4) of the statutes, no employe so transferred who
11 has attained permanent status in class is required to serve a probationary period.

12 (d) *Supplies and equipment.* On July 1, 2000, all tangible personal property,
13 including records, of the department of agriculture, trade and consumer protection
14 that are primarily related to the consumer protection investigation and enforcement
15 functions performed by the department of justice under chapters 100, 134, 136, 344,
16 704, 707 and 779, 1993 stats., or are primarily related to programs or functions
17 transferred to the department of justice under this act, are transferred to the
18 department of justice. The departments of justice and agriculture, trade and
19 consumer protection shall jointly identify the tangible personal property, including
20 records, and shall jointly develop and implement a plan for the orderly transfer
21 thereof. In the event of any disagreement between the departments, the joint
22 committee on finance shall decide the question.

23 (e) *Pending matters.* On July 1, 2000, any matter pending with the department
24 of agriculture, trade and consumer protection that is primarily related to the
25 consumer protection investigation and enforcement functions performed by the

BILL**SECTION 9104**

1 department of justice under chapters 100, 134, 136, 344, 704, 707 and 779, 1993
2 stats., or are primarily related to programs or functions transferred to the
3 department of justice under this act, are transferred to the department of justice.
4 All materials submitted or actions taken by the department of agriculture, trade and
5 consumer protection with respect to the pending matter are considered as having
6 been submitted to or taken by the department of justice.

7 (f) *Contracts.* On July 1, 2000, all contracts entered into by the department of
8 agriculture, trade and consumer protection or the department of justice that are
9 primarily related to the consumer protection investigation and enforcement
10 functions performed by the department of justice under chapters 100, 134, 136, 344,
11 704, 707 and 779, 1993 stats., or are primarily related to programs or functions
12 transferred to the department of justice under this act, and that are in effect on the
13 effective date of this paragraph, remain in effect and are transferred to the
14 department of justice. The departments of justice and agriculture, trade and
15 consumer protection shall jointly identify these contracts and shall jointly develop
16 and implement a plan for the orderly transfer thereof. In the event of any
17 disagreement between the departments, the joint committee on finance shall decide
18 the question. The department of justice shall carry out the obligations under these
19 contracts until the obligations are modified or rescinded by the department of justice
20 to the extent allowed under the contract.

21 (g) *Rules and orders.* All rules promulgated by the department of agriculture,
22 trade and consumer protection or by the department of justice that are in effect on
23 the effective date of this paragraph and that are primarily related to the consumer
24 protection investigation and enforcement functions performed by the department of
25 justice under chapter 344, 1993 stats., or are primarily related to programs or

BILL

1 functions transferred to the department of justice under this act, remain in effect
2 until their specified expiration date or until amended or repealed by the department
3 of justice. All orders issued by the department of agriculture, trade and consumer
4 protection or by the department of justice that are in effect on the effective date of
5 this paragraph and that are primarily related to the consumer protection
6 investigation and enforcement functions performed by the department of justice
7 under chapter 344, 1993 stats., or are primarily related to programs or functions
8 transferred to the department of justice under this act, remain in effect until their
9 specified expiration date or until modified or rescinded by the department of justice.

10 **SECTION 9204. Appropriation changes; agriculture, trade and**
11 **consumer protection.**

12 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS. In the schedule
13 under section 20.005 (3) of the statutes for the appropriation to the department of
14 agriculture, trade and consumer protection under section 20.115 (1) (a) of the
15 statutes, as affected by the acts of 1999, the dollar amount is decreased by \$953,200
16 for fiscal year 2000–01 to decrease funding for the purpose for which the
17 appropriation is made.

18 **SECTION 9230. Appropriation changes; justice.**

19 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS. In the schedule
20 under section 20.005 (3) of the statutes for the appropriation to the department of
21 justice under section 20.455 (1) (a) of the statutes, as affected by the acts of 1999, the
22 dollar amount is increased by \$953,200 for fiscal year 2000–01 to increase funding
23 for the purpose for which the appropriation is made.

24 **SECTION 9404. Effective dates; agriculture, trade and consumer**
25 **protection.**

BILL**SECTION 9404**

1 (1) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS. The repeal of
2 sections 100.207 (6) (em) and 165.25 (4) (ar); the renumbering of section 100.207
3 (title) and (1) to (5); the renumber and amendment of sections 100.171, 100.173,
4 100.174, 100.175, 100.177, 100.205, 100.206, 100.207 (6) (b), (c), (e) and (f), 100.209,
5 100.28, 100.50 and 100.51; the amendment of sections 20.115 (1) (hm), 20.455 (1)
6 (hm), 60.23 (24), 100.178 (1) (c), 100.178 (4), 100.178 (7), 100.18 (8), 100.18 (11) (d),
7 100.182 (5) (a), 100.182 (5) (b), 100.2095 (6) (b), 100.2095 (6) (c), 100.21 (3) (a), 100.26
8 (1), 100.26 (6), 100.264 (2) (intro.), 100.264 (3), 134.71 (12), 134.95 (2), 134.95 (3),
9 134.99 (1), 136.03 (title), 136.03 (1) (intro.), 196.219 (3) (n), 344.576 (3) (a) 5., 344.576
10 (3) (c), 344.579 (2) (intro.), 618.41 (6m), 631.01 (1) (b), 631.01 (4m), 632.18, 704.90 (11)
11 (title), 704.90 (11) (a), 704.90 (11) (b), 707.49 (4), 707.55 (10), 707.57 (2), 707.57 (3),
12 779.93 (title), 779.93 (1) and 779.93 (2) (intro.); and the creation 100.18 (11) (b) 1. of
13 the statutes by this act takes effect on July 1, 2000.

14

(END)