



State of Wisconsin
Tommy G. Thompson, Governor



Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

Date: April 1, 1999

To: Members of the Assembly Housing Committee

From: William L. Oemichen, Administrator
Merry Fran Tryon, Bureau Director
Division of Trade and Consumer Protection

Bill Brancel

Subject: AB 120

The Department of Agriculture, Trade and Consumer Protection is testifying for information on AB 120. There are provisions of the bill the Department would support. For example the Department could support:

- The AB 120 provision requiring correction of false information once the contractor has reason to believe the information is false.
- The AB 120 provision prohibiting damaging property to create the need for repairs. This may be useful for itinerant crews who often create roof damage to induce a repair.
- The AB 120 enhanced penalties for contractors who, as part of a scheme, enter into 2 or more contracts with the same customer for over \$1,000

The Department has several concerns about AB 120 to the extent it may unintentionally offer less protection to Wisconsin consumers. For example:

- AB 120 exempts sales/installation of carpeting. This is included in current ATCP 110.
- AB 120 exempts landscaping. This is included in current ATCP 110.
- AB 120 prohibits "knowingly misrepresenting" material facts, while ATCP 110 does not require proof of intent. ACTP 110 specifies certain material facts such as model home, brand name, identity of seller etc. and prohibits general misrepresentation.
- AB 120 prohibits promising performance the contractor does not intend to perform. ACTP 110 prohibits soliciting or accepting payment for work the seller does not intend to provide or has reason to believe will not be provided. In this respect, AB 120 would provide less protection for consumers.

AB 120 defines unconscionable contract as those where there is an unreasonable difference between the value of the work and the cost of the contract. Unconscionable is defined as costs that exceed 4 times fair market value of the work. We have concerns about the enforceability of this provision.

Finally, AB 120 requires employment of qualified persons by a contractor without definition of qualified. The Department believes some definitional language may be required here.

Thank you for the opportunity to testify on AB 120.