

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-17-99

BILL NO. AB 76

OR

SUBJECT Year 2000
misrepresentations

Jim Rabbitt
(NAME)

2811 Agriculture Dr
(Street Address or Route Number)

Madison 53708
(City and Zip Code)

PATCP
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

Please return this slip to a messenger PROMPTLY

Senate Sergeant-At-Arms
State Capitol - B35 South
P.O.Box 7882
Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: March 17, 1999

BILL NO. AB 76

OR

SUBJECT 2K Readiness
Disclosure

Chris Snyder
(NAME)

150 E. Gilman St. Ste A
(Street Address or Route Number)

Madison, WI
(City and Zip Code)

WI. Art & Truck Dealers Assoc.
(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-17-99

BILL NO. AB 76

OR

SUBJECT _____

Rep Sheryl Albers
(NAME)

(Street Address or Route Number)

(City and Zip Code)

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:
but not speaking:

Registering Against:
but not speaking:

Speaking for information
only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-17-99
BILL NO. 76
OR
SUBJECT _____

Bill G. Smith
(NAME)
Dr. M. Pinckney Switzel
(Street Address or Route Number)
Madison, 53703
(City and Zip Code)
National Federation of Independent
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3/17/99
BILL NO. AB 76
OR
SUBJECT _____

PAUL E. SICOLA
(NAME)
135 W. WELLS #604
(Street Address or Route Number)
MILWAUKEE, WIS. 53203
(City and Zip Code)
WISC. ACAD. OF TRIAL LAWYERS
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-17-99
BILL NO. AB 76
OR
SUBJECT TRK

Rep. Dave Hutchison
(NAME)
(Street Address or Route Number)
(City and Zip Code) 1st Assembly District
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-17-'99
BILL NO. AB76
OR
SUBJECT Y2K

Doug Johnson
(NAME)
30 W. Mifflin
(Street Address or Route Number)
Madison 53703
(City and Zip Code)
WI Merchants
(Representing)
Midwest Fed. +
Speaking in Favor:
Hardware Assn.
Speaking Against:

Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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Madison, WI 53707-7882

SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3/17/99
BILL NO. AB76
OR
SUBJECT Y2K

Patrick Stearn
(NAME)
501 E. Washington Ave
(Street Address or Route Number)
Madison, 53501
(City and Zip Code)
WI Manufacturers & Commerce
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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SENATE HEARING SLIP

(Please Print Plainly)

DATE: 3-17-99
BILL NO. AB76
OR
SUBJECT _____

Tony Studt
(NAME)
44 E. Mifflin St. #101
(Street Address or Route Number)
MADISON WI 53703
(City and Zip Code)
WI Retail Lumber Association
(Representing)

Speaking in Favor:
Speaking Against:
Registering in Favor:
but not speaking:
Registering Against:
but not speaking:
Speaking for information only; Neither for nor against:

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State Capitol - B35 South
P.O. Box 7882
Madison, WI 53707-7882

History of Assembly Bill 76

ASSEMBLY BILL 76

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

1999

- 02-02. A. Introduced by committee on INFORMATION POLICY.
- 02-02. A. Read first time and referred to committee on Information Policy 56
- 02-09. A. Public hearing held.
- 02-09. A. Executive action taken.
- 02-09. A. Assembly substitute amendment 1 offered by committee on Information Policy joint committee on Information Policy 65
- 02-11. A. Report Assembly substitute amendment 1 adoption recommended by committee on Information Policy, Ayes 5, Noes 0 66
- 02-11. A. Report passage as amended recommended by committee on Information Policy, Ayes 5, Noes 0 66
- 02-11. A. Referred to committee on Rules 66
- 02-11. A. Placed on calendar 2-17-99 by committee on Rules.
- 02-17. A. Read a second time 74
- 02-17. A. Assembly amendment 1 to Assembly substitute amendment 1 offered by Representatives Albers, Hutchison and Kaufert 74
- 02-17. A. Assembly amendment 1 to Assembly substitute amendment 1 adopted 74
- 02-17. A. Assembly amendment 2 to Assembly substitute amendment 1 offered by Representatives Schneider, Goetsch, Hutchison and Albers 74
- 02-17. A. Assembly amendment 2 to Assembly substitute amendment 1 adopted 74
- 02-17. A. Assembly substitute amendment 1 adopted 74
- 02-17. A. Ordered to a third reading 74
- 02-17. A. Rules suspended 74
- 02-17. A. Read a third time and passed, Ayes 98, Noes 0 74
- 02-17. A. Ordered immediately messaged 74
- 02-18. S. Received from Assembly 73
- 02-18. S. Read first time and referred to committee on Judiciary and Consumer Affairs 73

Text of Assembly Bill 76

Search for another history



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WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536
Telephone: (608) 266-1304
Fax: (608) 266-3830
Email: leg.council@legis.state.wi.us

DATE: March 9, 1999
TO: SENATOR GARY R. GEORGE
FROM: Ronald Sklansky, Senior Staff Attorney
SUBJECT: 1999 Assembly Bill 76

This memorandum, prepared at your request, describes the contents of 1999 Assembly Bill 76, generally relating to computer crimes and untrue, deceptive or misleading statements regarding the year 2000 readiness of electronic computing devices. Assembly Bill 76, as amended by Assembly Substitute Amendment 1 to the bill and Assembly Amendments 1 and 2 to the substitute amendment, passed the Assembly on February 17, 1999, on a vote of Ayes, 98 and Noes, 0. The bill was referred to the Senate Committee on Judiciary and Consumer Affairs on February 18, 1999.

A. CURRENT LAW

This part of the memorandum discusses remedies a buyer may pursue if the buyer receives a defective or substandard product. In general, the buyer may commence legal action under contract or tort theories or by making use of a statutory remedy.

I. Contract

If a buyer and seller have a sufficiently detailed agreement between them, and if a product purchased by the buyer under the agreement does not meet the standards specified in the contract, the buyer may simply claim that a breach of contract has occurred.

A more specialized form of a contractual obligation can be found in an express warranty. Section 402.313 (1), Stats., provides that an express warranty by a seller can be created as follows:

a. Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise.

b. Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

c. Any sample or model which is made part of the basis of the bargain creates an express warranty that the whole of the goods shall conform to the sample or model.

The statutes also recognize that implied warranties of merchantability and of fitness for a particular purpose arise in a contractual relationship. Section 402.314 (1), Stats., provides that a warranty that goods are merchantable is implied in a contract for sale if the seller is a merchant with respect to goods of that kind. Merchantability is defined in part to mean that the goods sold are fit for the ordinary purposes for which those goods are used and conform to the promises or affirmations made on the container or label if any. Similarly, s. 402.315, Stats., provides that where a seller has reason to know any particular purpose for which goods are required, and a buyer is relying on the seller's skill or judgment to select or furnish suitable goods, an implied warranty arises that the goods are fit for that purpose.

Unless express or implied warranties are modified or excluded, they can serve as the basis for a breach of contract action when a buyer receives a defective or substandard product. The authority to avoid express or implied warranties is contained in s. 402.316, Stats. (Specific variations on a buyer's remedies may be reviewed in ss. 402.711 to 402.725, Stats.)

The buyer, as a successful litigant in a breach of contract action, may receive consequential damages (natural and probable losses), incidental damages (reasonable expenses incurred incident to a breach) or future profits, if those profits can be computed with reasonable certainty.

2. Tort

A buyer may sue a seller of a product for a negligent or intentional misrepresentation regarding the product sold. The negligence action is based on the notion that the seller made a statement with an honest belief, but engaged in a lack of reasonable care in ascertaining particular facts regarding the product or did not exercise reasonable care in the manner of expressing the representation. In a case of intentional deceit, the buyer must allege that a representation was made; that the representation was untrue; that the seller knew the representation was untrue or was made with a reckless disregard for the truth; that the seller made the representation intentionally; and that the buyer believed the representation and relied upon it.

Wisconsin law also recognizes a form of strict liability which may impose a responsibility on a seller who may or may not have a direct relationship with a buyer. The buyer must prove that the product was in a defective condition and unreasonably dangerous; that the product was defective when transferred; that the defective condition was a cause of the buyer's injury; that the seller of the product was engaged in the business of selling such products; and that the product was one that the seller expected to, and did, reach the buyer without substantial change.

As in the case of a contractual relationship, a buyer suing on a tort theory may receive consequential damages from a seller.

3. Statutory Remedy

With respect to the sale of merchandise, s. 100.18 (1), Stats., generally prohibits any assertion, representation or statement of fact that is untrue, deceptive or misleading. Any person suffering a pecuniary loss because of a violation of this provision may sue and recover the pecuniary loss, together with costs, including reasonable attorney fees. In addition, the Department of Agriculture, Trade and Consumer Protection (DATCP) may commence a suit to enjoin any violations of this provision. If the department succeeds in receiving injunctive relief from a court, and if a person suffers pecuniary loss because of a violation of that injunction, the person may sue for double damages, together with the costs, including reasonable attorney fees. [See s. 100.18 (11) (a) and (b), Stats.]

B. 1999 ASSEMBLY BILL 76

1. Readiness Statement

Assembly Bill 76 provides that a person who manufactures or sells an electronic computing device or a product containing an electronic computing device may not offer the device or product for sale in Wisconsin unless the manufacturer or seller delivers or hands a written statement to the purchaser, before sale, indicating the device's or product's year 2000 readiness. This statement must be on white paper and the typeface must be black, easy to read and at least 14-point size. The provider of the statement must check one of three boxes on the readiness statement which provides that the device or product is, or is not, year 2000 ready or that the year 2000 readiness of the device or product is unknown. A person who violates this provision must forfeit not less than \$50 nor more than \$200 for each violation.

2. Advertising and Sales Representations

Assembly Bill 76 provides that a person may not make any statement or representation with regard to the year 2000 readiness of an electronic computing device, or a product containing an electronic computing device, which is false, misleading or deceptive, or which omits material information with respect to year 2000 readiness that is necessary to make the statement not false, misleading or deceptive. The bill prescribes that a false, misleading or deceptive statement is made if a device or product is said to be year 2000 ready, but is not actually ready without modification or alteration. A person violating this provision must forfeit not less than \$100 nor more than \$10,000 for each offense.

3. Information on Year 2000 Readiness

Assembly Bill 76 provides that whenever DATCP has reason to believe that a person is selling or offering to sell, or has sold or offered to sell, an electronic computing device or a product containing an electronic computing device in Wisconsin by making a false, misleading or deceptive statement, the department may request information about the year 2000 readiness of any electronic computing devices or products containing electronic computing devices sold by that person. A person who fails to respond to an information request or who provides a false,

misleading or deceptive response must forfeit not less than \$100 nor more than \$10,000 for each offense.

4. State Enforcement

The DATCP may request the Department of Justice to commence an action in circuit court in the name of the state to restrain by temporary or permanent injunction the making of false, misleading or deceptive statements with regard to year 2000 readiness. In addition, a district attorney, upon informing DATCP, may commence such an action. A court may award injunctive relief and may award any person twice the amount of any damages suffered through the making of a false, misleading or deceptive statement.

5. Computer Crime

Assembly Bill 76 amends s. 943.70 (2), Stats., which in part provides that a person commits a Class C felony if the person wilfully, knowingly and without authorization manipulates computer information to create a substantial and unreasonable risk of death or great bodily harm to another. The bill provides that a Class C felony is committed if the computer offense creates a substantial and unreasonable risk of death or great bodily harm to another or creates a risk of death or great bodily harm to another by causing an interruption or impairment of governmental operations or public communication, of transportation or of a supply of water, gas or other public service. A Class C felony is punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 10 years, or both. [See s. 939.50 (3) (c), Stats. On December 31, 1999, a Class C felony will be punishable by a fine not to exceed \$10,000 or imprisonment not to exceed 15 years, or both.]

6. Initial Applicability

The provisions of Assembly Bill 76 apply to acts taken on or after the effective date of the bill.

RS:wu;ksm



Wisconsin Merchants Federation

The Voice Of Wisconsin Retailing

30 West Mifflin Street
Madison, Wisconsin 53703
Telephone 608/257-3541
Fax 608/257-8755
E-mail wimerfed@execpc.com

March 10, 1999

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Douglas Q. Johnson

V.P./Administration

Mary C. Kaja

Senator Gary George, Chair
Senate Judiciary & Consumer Affairs Comm.
P.O. Box 7882
Madison WI 53707-7882

Gary
~~Dear Senator George:~~

On Wednesday, March 17, the Senate Judiciary and Consumer Affairs Committee has scheduled a hearing on Assembly Bill 76. Our members have several concerns.

First, this legislation enacts sales practice rules that already appear in s.100.18(1)(11), Wis. Stats. State law already forbids sales representations that are false, misleading or deceptive.

Second, there is no delayed effective date for preparing and distributing the required written consumer disclosure (see Section 1. creating s.100.261, Wis Stats.). AB76 requires a "Readiness Statement" as a condition of sale... "a person who sells an electronic computing device or a product containing an electronic computing device may not offer the device or product for sale in this state unless the manufacturer or seller delivers or hands a written statement to the purchase, before the sale, indicating the device's or product's year 2000 readiness."

The civil forfeitures and penalties complete with recovery of attorney fees is an incredibly severe penalty for sales made without the "Readiness Statement". We agree that sales practices that are false, deceptive or misleading should be subject to penalty. However, sales that fail to be accompanied by a "readiness statement" are not false, deceptive or misleading but the same penalties will apply...up to \$10,000 in civil forfeitures plus private remedies complete with the recovery of attorney fees.

As far as we can see, AB76 poses far more problems for mainstreet merchants than Y2K itself. Please consider that AB76 applies to sales of an "electronic computing device" which is defined as "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

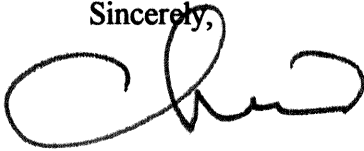
assists in the operation of physical apparatus that relies on automation or digital technology to function.” What merchandise does this include? Where are all these embedded chips? AB76 expects your local hardware store to know.

AB76 is not necessary. It will result in statewide noncompliance. It exposes every merchant to huge penalties and gives lawyers an incredible windfall at the expense of merchants and consumers....for those stores that survive, the cost of AB76 will be passed on in higher prices.

If AB76 is to pass, at least delay its effective date and reduce the penalties for failing to hand out the “Readiness Statement”. False, misleading and deceptive sales practices is not the issue here...overkill is.

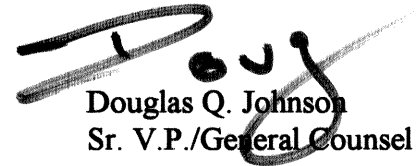
Thank you.

Sincerely,



Chris C. Tackett
President & CEO

CCT:DQJ:mb



Douglas Q. Johnson
Sr. V.P./General Counsel

ab76ne.ltr

Concern about AB 76

3-30-99

Katie Boyce

W.S. Speech, Language + Hearing Assoc
(speech pathologists + audiologists)

hearing aids have embedded chips

embedded chips in hearing aids

don't have day/date functions

Hearing Alliance

(hearing instrument specialists)

exempt devices w/ embedded chips
that do not function based on
day or date

seems like liability bill

Y2K compliant or not Y2K compliant

255-4612 (fax)

Conversation w/ Rep. Marlin Schneider

3-26-9

Re: concerns about AB 76

Assembly added amendment that requires
DATEP to receive a complaint before
they can take action

State of Wisconsin

Senate Judiciary Committee

March 10, 1999

State Senator Gary George (D) (Chair)
P.O. Box 7882, Madison, WI 53707-7882
District 6 – Milwaukee
Tel. 608-266-2500
e-mail Sen.George@legis.state.wi.us

State Senator Fred Risser (D)
P.O. Box 7882, Madison, WI 53707-7882
District 26 – Madison
Tel. 608-266-1627
e-mail Sen.Risser@legis.state.wi.us

State Senator Alice Clausing (D)
P.O. Box 7882, Madison, WI 53707-7882
District 10 -- Menomonie
Tel. 608-266-7745
e-mail Sen.Clausing@legis.state.wi.us

State Senator Joanne Huelsman (R)
P.O. Box 7882, Madison, WI 53707-7882
District 11 -- Waukesha
Tel. 608-266-2635
e-mail Sen. Huelsman@legis.state.wi.us

State Senator Alberta Darling (R)
P.O. Box 7882, Madison, WI 53707-7882
District 8 -- River Hills
Tel. 266-5830
e-mail [Sen. Darling@legis.state.wi.us](mailto:Sen.Darling@legis.state.wi.us)



WISCONSIN SPEECH-LANGUAGE-HEARING

Dedicated To Helping Persons With Communicative Disorders

April 6, 1999

Senator Gary George
Post Office Box 7882
Madison, WI 53707-7882

Dear Senator George:

In preparing for the year 2000, both the state and the private sector have been working to make sure there are minimal problems. However, the Wisconsin Speech-Language-Hearing Association (WSHA) would like to express its concern about a bill currently in your committee. AB 76 deals with providing a penalty to any retailer who sells a product with an electronic computing device and does not notify the consumer if the product is Y2K ready. The problem with this bill lies in the definition of "electronic computing device." The definition includes all products with embedded chips.

Embedded chips are everywhere including hearing aids. **However, the chips in hearing aids do not function on date data.** This means that regardless of the year, century or millennium, these hearing aids will continue to function efficiently and effectively. The definition does not exclude any devices with embedded chips that do not rely on the date to operate correctly.

The intent of this legislation protects consumers against deceptive products that will not function after December 31, 1999. However, the language leaves all products open to liability, even those that will be working correctly after the century change.

Also, consumers are already protected against misleading, false or deceptive sales in state law (s.100.18(1)(11) Wis. Stats.) Consumers are further protected when it comes to hearing devices because both audiologists and hearing instrument specialists are licensed by the state. Any customer with a complaint about either the care or product they receive can complain to the Department of Regulation and Licensing.

This bill would put state licensed audiologists at risk of \$10,000 in civil forfeitures plus coverage of all attorney fees for selling a product that will never have to be Y2K compliant.


We would like to urge you to support other measures of consumer protection for the Y2K problem, like the Department of Administration's proposal for Y2K outreach through the Department of Agriculture, Trade and Consumer Affairs. If it is necessary to pass

want an amdt.
to AB 76 exempting
devices that have
embedded chips that
do not function on
date data

legislation to protect consumers from non-compliant products, then an exemption for products that do not function on date data is essential.

Thank you for your attention to this matter.

Sincerely,


Meredy Hase MS, CCC-A
VP of Audiology


George Kilsdonk
VP of Government Affairs



Wisconsin Automobile & Truck Dealers Association

GARY D. WILLIAMS
President

150 E. Gilman Street—Suite A
Madison, WI 53703
(608) 251-5577 FAX: 251-4379

Mailing Address:
P.O. Box 5345, Madison, WI 53705-0345

TO: Members of the Senate Judiciary Committee

FROM: Wisconsin Auto & Truck Dealers Association

DATE: March 17, 1999

RE: **OPPOSITION TO ASSEMBLY BILL 76**

Wisconsin Automobile & Truck Dealers Association opposes AB 76.

- Automobile transactions are currently heavily regulated. Wisconsin law provides statutory and Administrative remedies for product defects/malfunction or sales representations that are false, misleading or deceptive.
- New vehicles typically come with manufacturer warranty that would cover malfunctions of the vehicle due to a computer chip or monitoring device.
- Used vehicles are:
 1. Sold with existing manufacturer warranty. = Y2K problem covered.
 2. Purchasers can purchase extended service = Y2K might be covered (depending on policy).
 3. Older vehicles typically sold "As Is" due to the unpredictable nature of the motor vehicle.
- This bill would only provide possible protection for a very small number of consumers (maybe as much as six months worth of transactions). Consumers who have already purchased items this year will not be benefited by this legislation.
- If this bill were to pass, the notice requirement would place a heavy burden on all Wisconsin merchants. Unfairly exposing them to liabilities that competitors in neighboring states would not have to worry about.
- We feel that in the case of our industry there is no way for a dealer or their sales personnel to know whether a vehicle will malfunction due to the sun coming up on January 1, 2000.

DQ J
TB

California Lawsuit Presses Retailers on Y2K Disclosure

Outcome of case may rest on retailers' public statements about the readiness of the products they sell

California retailers could be held liable for telling shoppers whether or not products they sell are Year 2000 compliant, if a pending consumer lawsuit in the state proves successful. While some industry analysts see the suit as without merit, concern lies in whether it will set a nasty precedent should the plaintiff win.

"The point of the suit is to somehow make retailers responsible for knowing about the readiness of manufacturers' products," says Cathy Hotka, vice president-information technology, National Retail Federation. "But there is virtually no way for them to know what the manufacturers don't know themselves.

"Manufacturers are changing their statements on product readiness constantly — information that is buried deeply in their websites," she continues. "There is no 'oracle at Delphi' that retailers could tap for trustworthy information."

Tom Johnson, a resident of Concord, Calif., charges in the suit that seven electronics retailers should be required to inform consumers of the Year 2000 status of computers and software sold in their stores. Failure to do so is in violation of California's Unfair Business Practices Act, Johnson argues.

The retailers named in the suit — CompUSA, Circuit City, Office Max, Office Depot, Staples, Good Guys and Fry's Electronics — filed to have the case dismissed, but the motion was denied at a hearing in April.

"The goal of the suit is injunctive relief," says Rich Ergo, a partner with Walnut Creek, Calif.-based Bowles & Verna, the firm representing Johnson. "We want disclosure in the stores of what is or isn't Year 2000 compliant.

"For example, Windows98 needs a patch, but the retailers don't tell the consumer it needs a patch," Ergo says. "We're not asking for the retailers to start testing

all the products for compliance, but they should tell the consumers if Microsoft is still testing. Then a consumer might make a decision to buy another product that is already compliant."

Bowles & Verna is pushing for a trial in early fall so that if the plaintiff wins, retailers would have several months before January 2000 to comply with a court order to inform consumers.

PUBLIC STATEMENTS Lou Marcoccio, Y2K research director for Stamford, Conn.-based Gartner Group, comments

The federal government's Small Business Administration is launching a loan program to help small businesses prepare for the Year 2000. Small businesses will be able to borrow funds to prepare or replace their systems before the end of the year, if they have not yet done so

that the ultimate judgment of the case will depend on public statements the retailers have made about the products they sell.

"Have they made disclaimers, stating they are not to be held responsible for Y2K compliancy? Or have they advertised that the products they sell are Year 2000 compliant? These issues would help decide fault," Marcoccio states, adding that just because the case is moving forward does not mean that judgment will be made against the retailers.

If the retailers lose the case, however, a precedent could be set for future lawsuits, he asserts.

"If judgment is brought against the retailers, it could set a precedent, but we don't know what that is yet," he says. "The end judgment could be different than the suit set out to be. But if judgment is brought against the retailers, it could be used as a precedent in other parts of California or other parts of the country.

"We hope that is not the case," he says. "We hope that litigation is minimal, but everyone is at risk for Y2K litigation until some of these cases are settled."

GOVERNMENT LOANS In other news, the federal government's Small Business Administration is launching a loan program to help small businesses prepare for the Year 2000. Small businesses will be able to borrow funds to prepare or replace their systems before the end of the year, if they have not yet done so. Loans also will be available to small businesses that suffer economic hardship during 2000 as a result of the millennial bug, according to the SBA.

The SBA also is sponsoring Year 2000 "matchmaker" fairs to introduce small businesses to Year 2000 services and vendors. For a list of dates and locations, see the agency's website at www.sba.gov. — *Ginger Koloszyk* **STORES**



Wisconsin Merchants Federation

The Voice Of Wisconsin Retailing

30 West Mifflin Street
Madison, Wisconsin 53703
Telephone 608/257-3541
Fax 608/257-8755

FAX TRANSMISSION COVER SHEET

Date: 3-16-'99

To: Ron Sklansky

FAX: 266-3830

Subject: AB76

Sender: Doug Johnson

YOU SHOULD RECEIVE () PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL.

NOTES:

I'll attend the committee hearing until about 9:30 but must be in Milwaukee by 11:15... just so you know.

cd Ted + ✓
Amur



Wisconsin Merchants Federation

The Voice Of Wisconsin Retailing

30 West Mifflin Street
Madison, Wisconsin 53703
Telephone 608/257-3541
Fax 608/257-8755
E-mail wimerfed@execpc.com

OFFICERS

**Chairman of
The Board**
Alan Rudnick
R. Rudnick, Inc.
Sheboygan

Vice Chair
Dave Liebergen
Shopko Stores
Green Bay

Secretary
Jeff Rusinow
Kohl's Department Stores
Menomonee Falls

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Fritz Ragatz
Oriental Specialties
Madison

EXECUTIVE STAFF

President/CEO
Chris C. Tackett

**Sr. Vice President
& General Counsel**
Douglas Q. Johnson

V.P./Administration
Mary C. Kaja

MEMORANDUM

TO: Selected Parties

FROM: Chris C. Tackett, President & CEO
Douglas Q. Johnson, Sr. V.P./General Counsel

DATE: March 10, 1999

RE: AB 76 "Y2K"

Attached please find a copy of AB 76 addressing Y2K concerns. A senate hearing is set for next week. Two weeks ago AB76 passed the Assembly 98-0.

Please note its penalties and requirements. For starters, we are concerned about penalties and that there is no delayed effective date therein immediately requiring a written consumer disclosure ("Readiness Statement") as a condition of sale. We also note in closing that state law already prohibits sales representations that are false, misleading or deceptive (s.100.18(1) and (11), Wis. Stats.). Please see our letter to Senator George.

If you have any concerns please let us know. If you would like to testify before the Senate Judiciary and Consumer Affairs Committee on Wednesday, March 17, please let us know. Feel free to contact committee members and your Senator (send us a copy of any letter, e-mail or fax.) A list is attached.

Thank you.

CCT:DQJ:mb
Enc.

ab76mem.ltr



Wisconsin Merchants Federation

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MEMORANDUM

TO: Doug Johnson
FROM: Tom Bretz
DATE: March 11, 1999
RE: Y2K Products

Attached is a list of products which may be affected by Y2K.

Please let me know if you have any questions.

Air Cond.	Defibrulators	Closers	Motorcycles	Systems
Systems	Defrost Systems	Electronic	Pacemakers	Synthesizers
Airplanes	Dehumidifiers	Scales	Pagers	Teleconference
Answering	Dictaphones	Elevators	Palm Pilots	Equipment
Machines	Dishwashers	Escalators	Phones	Televisions
Antennas	Doorbells	Farm	Pocket	Thermostats
Aquarium	Drills	Equipment	Organizers	Time Clocks for
Filtration	Driving Snow	Fax Machines	Postage	employees
Systems	Plows	Film Editing	Machines	Toaster Ovens
ATM Machines	Dryers	Equipment	Price Scanners	Toasters
Auto Flush	DVD Systems	Filter Systems	Printers	Travel Alarm
Toilets	EKG	Freezers	Public Address	Clocks
Automatic Toll	Equipment	Furnaces	Systems	VCRs
Systems	Electron	Gas/Electric	Radar Detectors	Ventilators
Automatic	Microscopes	Meters	Radar Systems	Virtual Reality
Garbage	Electronic	Gasoline Pumps	Radios	Machines
Compacting	Typewriters	GPS Systems	Radon	Walkie Talkies
System	Electronic	Hand Held	Detectors	Washing
Bar Code	Odometers	Inventory	Ranges/Stoves	Machines
Systems	Electronic	Control	Refrigerators	Water Heaters
Battery	Dictionaries/The	Hand Held CD	Remote	
Rechargers	saurus	Players	Controlled Cars,	
Boats	Electronic Food	Hearing Aids	Airplanes	
Breadmakers	Processors	Heart Monitors	Satellite Dishes	
Cable Boxes	Electronic	Helicopters	Scanners	
Calculators	Shavers	Humidifiers	Security	
Camcorders	Electronic	Intercom	Systems	
Cameras	Slicing	Systems	Shredders	
Carbon	Machines	Inventory	Seismographs	
Monoxide	Electronic	Control	Smoke	
Detectors	Vaults	Equipment	Detectors	
Cars	Electronic	Karaoke	Sonar Systems	
Cell Phones	Thermometers	Machines	Sprinkler	
Centrifuges	Electronic	Keyboards	Systems	
Climate Control	Lighting	Kilns	Stair Masters,	
Systems	Systems	Lie Detector	Nordic Tracks,	
Clock Radios	Electronic	Equipment	Rowing	
Coffee Makers	Telescopes	Massage Chairs	Machines	
Commercial	Electronic	Metal Detectors	Stereos	
Plumbing	Compasses	Microwaves	Stoplights,	
Systems	Electronic	Mini Disk	Railroad Signals	
Computers	Translators	Players	Stopwatches	
Copy Machines	Electronic Scent	Mining	Sump Pump	
Credit Card	Machines	Equipment	Systems	
Processors	Electronic Door	Modems	Surround Sound	



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March 11, 1999

Senator Brian Burke
Representative John Gard
Joint Finance Committee Co-Chairs
State Capitol
Madison WI

Dear Senator Burke and Representative Gard:

The Wisconsin Merchants Federation, joined by the Midwest Hardware Association, endorses the Department of Administration's request now before you for Y2K Outreach by the Department of Agriculture, Trade and Consumer Protection (see attached). Our members are concerned about Y2K for themselves and their customers. DATCP's educational role makes sense.

Thank you.

Sincerely,

Chris C. Tackett
President & CEO

Douglas Q. Johnson
Sr. V.P./General Counsel

CCT:DQJ:mb

doareq.end

cc: Joint Finance Members
DATCP Secretary Brancel
DATCP Administrator Bill Oemichen
Governor Thompson

Education is
better
alternative!

PROGRAM SUMMARY1. Y2K Outreach

\$150,000

Wisconsin residents are receiving conflicting information on the impact the Y2K computer problem will have on their supply of energy and the appropriate actions to take in response. To address these concerns, the Governor has established the Blue Ribbon Commission on Year 2000 Preparedness to study this issue and to provide the state's citizens with credible, timely and actionable information about institutional, personal and household preparedness.

This program funds a portion of this outreach/educational effort. Because Wisconsin is a cold winter state, the potential interruption of the electric or natural gas delivery system in January could have severe consequences. While the preliminary findings of the blue Ribbon Commission are cautiously optimistic that disruptions will not occur, there is an ongoing need to convey this and other Y2K information to citizens. Absent reliable information, some residents may purchase and install equipment (e.g. electric generators and space heaters) which, if improperly installed or operated, could pose a safety hazard for themselves and others.

This program will provide credible information that will help citizens understand the Y2K issue and prepare for energy contingencies associated with it. The goal is to provide citizens with the information needed to make a transition to the Year 2000 smoothly, without unfounded anxiety, and adequately prepared to meet the short term challenges that could arise.

2. Community Services Energy Efficiency Awards

\$100,000

The state continues to have a strong interest in making child care and community based residential facilities (CBRF) more energy efficient. This program furthers that interest by providing awards to eligible child care and CBRF for energy efficient improvements based on the replacement of appliances with energy efficient (EPA energy star) units. The existing program guidelines will be used to determine the award amounts. Existing facilities and facilities that are in the process of being renovated/retrofitted will continue to be eligible under this program.

3. Fresh Start

\$100,000

This program emphasizes the construction of energy efficient new homes. Program monies would be used to provide the homes with energy efficient furnaces, water heaters and other appliances and the insulation materials and windows necessary to assure the homes are energy efficient. Approximately ten energy efficient homes would be constructed with Stripper XIX monies.

The homes would be constructed with assistance from youths who are experiencing difficulties with the judicial system. This program engages these youth in productive activities and helps them develop basic job skills and potentially specialized trade skills. Program monies would also be used to provide the training and supervision necessary to help



State of Wisconsin
Tommy G. Thompson, Governor



Department of Agriculture, Trade and Consumer Protection

Ben Brancel, Secretary

March 17, 1999

The Honorable Gary George
Senate Committee on Judiciary and Consumer Affairs
P.O. Box 7882
Madison, WI 53707-7882

Re: Department of Agriculture, Trade and Consumer Protection Testimony on Assembly Bill 76

Dear Chairperson George;

The Department of Agriculture, Trade and Consumer Protection testifies for information on Assembly Bill 76.

Consumer information and education is the cornerstone of fair business practices. Accurate and meaningful product disclosures are fundamental to ensuring consumers are in a fair bargaining position.

During our recent undercover surveys of retailers, the department drew three conclusions which are directly affected by this bill. First, most salespeople held themselves out as having knowledge about the products offered for sale. Second, no salesperson offered information about year 2000 compliance of the products they offer, and third, when asked about year 2000, most salespeople misrepresented the readiness of the product. Under this bill, sellers would "publish" their level of knowledge by checking the yes, no, or unknown box. They would affirmatively present year 2000 information to the consumer and it would have to be truthful.

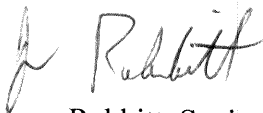
The Department is committed to doing whatever is possible within its resources to ensure consumers receive accurate information that will make it possible for them to effectively respond to any challenges presented by the Year 2000 issue.

However, the Department is concerned about expectations the legislature may have for the Department if this legislation passes into law. The Department is concerned that the bill's broad labeling scope (e.g. all manufacturers and retailers doing business in Wisconsin) means many thousands of businesses will have to be notified of the new requirements. An expectation of individual notices would be beyond the financial resources of the Department. For this reason, we anticipate the Department's primary education and information program will be through manufacturer and retailer trade associations, as well as the general media.

The Department has already re-allocated significant investigation resources to the Year 2000 issue. Depending on the level of compliance, this new labeling requirement could place a significant additional demand on the Department's enforcement resources.

Thank you for asking the Department of Agriculture, Trade & Consumer Protection to comment on AB 76.

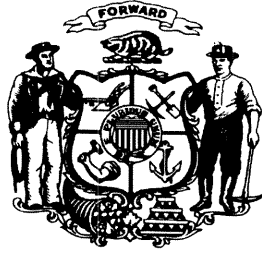
Sincerely,

A handwritten signature in cursive script that reads "James Rabbitt". The signature is written in dark ink and is positioned above the typed name.

James Rabbitt, Senior Analyst
Bureau of Consumer Protection
DIVISION of TRADE and CONSUMER PROTECTION
608/224-4965 FAX: 608/224-4939

cc: William L. Oemichen, Administrator
Merry Fran Tryon, Bureau Director

State of Wisconsin



GARY R. GEORGE
SENATOR

TO: Members, Senate Committee on Judiciary and Consumer Affairs

FROM: Dan Rossmiller, Clerk
Senate Committee on Judiciary and Consumer Affairs

RE: Materials Relating to Items Scheduled for Hearing on March 17th

DATE: March 15, 1999

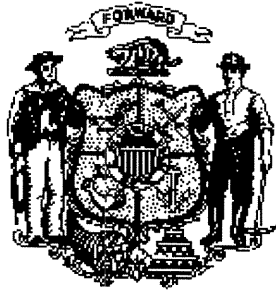
Attached please find four separate sets of items:

1) copies of the Statement of Economic Interests for the two gubernatorial appointees who are scheduled to appear before the committee on Wednesday.

2) a copy of a memo from our Legislative Council attorney, Ron Sklansky, detailing the provisions of Assembly Bill 76, which is also on the hearing agenda. In addition, please find a memo from Chris Tackett and Doug Johnson of the Wisconsin Merchants Federation expressing concerns about the bill.

SB83 → 3) a copy of LRB 2379/2, relating to materials involving the sexual exploitation of a child. (This is the draft relating to addressing the recent Wisconsin Supreme Court decision in State v. Zarnke, which found a portion of the state's child pornography statute to be unconstitutional.)

4. a copy of the amended hearing notice referencing the LRB number of the attached bill draft in item #3 above.



*Senator Gary R. George
State of Wisconsin
Sixth Senate District*

118 South, State Capitol Building
P. O. Box 7882
Madison, WI 53707-7882
(608) 266-2500

4011 W. Capitol Drive
Milwaukee, WI 53216
(414) 445-9436
(800) 362-9472

Facsimile Cover Sheet

Please deliver to the individual named below.

To: Catherine Boyce, Broydrick & Associates

Phone: (608) 255-0566

Fax: (608) 255-4612

From: Dan Rossmiller, Chief of Staff

Number of pages: 5 pages, including this cover sheet

Message: Please find a copy of Ron Sklansky's memo on AB 76, as passed by the Assembly. Please call me (608) 266-2500 when you are ready to talk about an amendment.

AB 76 "Y2K Readiness" Bill

Concerns Raised:

Amendment

Delayed Effective Date

(July 1, 1999?)

Penalty is extreme for small business

(Reduce?)

Definition of Devices Covered

(Exempt devices that do not rely on day/date function?)

Requirement of complaint before DATCP can take action

(Delete?)

Private Cause of Action

(Delete?)

AB 76 "Y2K Readiness" Bill

Concerns Raised:

Delayed Effective Date	(July 1, 1999?)
Penalty is extreme for small business	(Reduce?)
Definition of Devices Covered	(Exempt devices that do not rely on day/date function?)
Requirement of complaint before DATCP can take action	(Delete?)

Tentative Hearing Appearance Schedule

Appointees

Maura McMahon

Spryo Condos

AB 62 (Relating to changing the name of a minor)

SB 72 (Relating to reestablishing the office of the public intervenor)

AB 76 (Relating to statements in connection with the ability of an electronic computing device... Y2K)

SB 6 (Trigger Locks)

SB 83 (Relating to sexual exploitation of a child.)