

**2001 DRAFTING REQUEST****Assembly Amendment (AA-ASA1-SB55)**

Received: 06/21/2001

Received By: gibsom

Wanted: Soon

Identical to LRB:

For: Spencer Black (608) 266-7521

By/Representing: Susan McMurray

This file may be shown to any legislator: NO

Drafter: gibsom

May Contact:

Addl. Drafters: rkite  
nelsorp1

Subject: Trade Regulation - other

Extra Copies:

Submit via email: YES

Requester's email: Rep.Black@legis.state.wi.us

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Transfer of consumer protection functions from DATCP to DOJ, no. 51

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**Instructions:**

See Attached

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**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	gibsom 06/21/2001	gilfokm 06/21/2001	jfrantze 06/23/2001	_____	lrb_docadmin 06/23/2001	lrb_docadmin 06/23/2001	

FE Sent For:

&lt;END&gt;

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No specific pre topic given

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**Topic:**

Transfer of consumer protection functions from DATCP to DOJ, no. 51

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**Instructions:**

See Attached

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<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	gibsom	1-6/21 King	6/22	Self 6/22			

FE Sent For:

<END>

## **Assembly Democrat Budget Amendment Requests**

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**Request Number:** 51  
(not LRB number)

**Agency:** DATCP

**Description:** Return Consumer Protection to DOJ

**Attachments:**

**Cost (if known):**

**Contact person:** Susan McMurray, 266-7521, Representative Black's Office

MGC

**AGRICULTURE, TRADE AND CONSUMER PROTECTION**

**1. TRANSFER CONSUMER PROTECTION LEGAL FUNCTIONS FROM DATCP TO DOJ**

	Chg. to JFC Funding Positions	
GPR	-\$2,515,400	- 17.75
PR	<u>350,000</u>	<u>0.00</u>
	-\$2,165,400	- 17.75

Senate: Delete \$1,589,500 GPR and 28.25 GPR consumer protection positions from DATCP in each fiscal year (0.45 division administrator, 0.30 budget policy supervisor, 0.50 communications specialist, 0.75 bureau director, 9.65 consumer protection investigators, 3.0 investigator supervisors, 5.65 consumer specialists, 0.5 legal secretary, 0.8 program and policy analyst and 6.65 program assistants).

In addition, transfer \$1,057,500 GPR and 15.5 GPR consumer protection positions from DATCP to the Department of Justice (DOJ) in each fiscal year (2.0 attorneys, 1.0 consumer complaint supervisor, 4.0 consumer protection investigators, 1.0 investigator supervisor, 5.5 consumer specialists and 2.0 program assistants).

Further, provide DOJ \$221,200 GPR and 10.50 GPR consumer protection positions in 2001-02 and \$442,400 GPR in 2002-03 (8.5 consumer specialists and 2.0 paralegals).

Transfer Department of Health and Family Services authority and related administrative rules for fitness center staff requirements under s. 100.178 and all of DATCP's authority and related administrative rules of the following statutory sections to DOJ:

- 100.15 Regulation of trading stamps
- 100.16 Selling with pretense of prize; in-pack chance promotion exception
- 100.17 Guessing contests
- 100.171 Prize notices
- 100.173 Ticket refunds
- 100.174 Mail-order sales regulated
- 100.175 Dating service contracts
- 100.177 Fitness center and weight reduction center contracts
- 100.18 Fraudulent representations
- 100.182 Fraudulent drug advertising
- 100.20 Methods of competition and trade practices
- 100.205 Motor vehicle rustproofing warranties
- 100.207 Telecommunications services
- 100.208 Unfair trade practices in telecommunications
- 100.209 Cable television subscriber rights

100.2095	Labeling of bedding
100.28	Sale of cleaning agents and water conditioners containing phosphorus
100.31	Unfair discrimination in drug pricing
100.37	Hazardous substances act
100.38	Antifreeze
100.41	Flammable fabrics
100.42	Product safety
100.43	Packaging standards; poison prevention
100.44	Identification and notice of replacement part manufacturer
100.46	Energy consuming products
100.50	Products containing or made with ozone-depleting substances
Chap 136	Future Service Plans
Chap 344	Vehicle Financial Responsibility
Chap 704	Landlord and Tenant
Chap 707	Timeshares
Chap 779	Liens

In addition, transfer DATCP's current authority to file court actions in all other Chapter 100 (Marketing; Trade Practices) sections to DOJ, for example in 100.201 (Unfair Trade Practices in the Dairy Industry), 100.22 (Discrimination in the Purchase of Milk) and 100.235 (Procurement of Vegetable Crops). Further, require DOJ to represent DATCP in any court action relating to the enforcement of Chapter 100, and remove DATCP's authority to be represented by its attorneys or to appoint special counsel to prosecute or assist in the prosecution of all cases arising under Chapter 100 of the statutes, except for s. 100.206 (Music royalty collections; fair practices), s. 100.21 (Substantiation of energy savings or safety claims), s. 100.30 (Unfair sales act) and s. 100.51 (Motor fuel dealerships). In addition, DATCP would be allowed to continue to commence an action in court to recover allowed claims on behalf of vegetable producers.

Allow DOJ (rather than DATCP) to enjoin a violation of milk payment audit requirements upon DATCP request. Further, require the Department of Commerce to consult with DOJ (rather than DATCP) when establishing rules relating to quality standards for local energy resource systems. Require DATCP to consult with DOJ in developing license applications and other forms required for pawnbrokers, secondhand article dealers and secondhand jewelry dealers.

In addition, require that DOJ, instead of DATCP, be awarded consumer protection assessments on all fines and forfeitures for violations under Chapter 100 of the statutes or corresponding rules or ordinances. Provide DOJ expenditure authority of \$175,000 PR annually in a new, annual appropriation and require that any revenue received from these assessments that exceeds \$185,000 in any fiscal year be deposited to the state's general fund. In addition to other allowable penalties, allow the court to award the reasonable and necessary costs of investigation and an amount reasonably necessary to remedy the harmful effects of the violation from any person who violates Chapter 100 provisions. Require that all of these monies

that the court awards be deposited in the state's general fund, and require 10% of the money deposited in the general fund for the costs of investigation and the expenses of prosecution, including attorney fees, to be credited to a current DOJ investigation and prosecution appropriation.

Transfer the 15.5 staff, assets, liabilities and obligations primarily associated with the transferred consumer protection functions from DATCP to DOJ on the effective date of the bill. Provide that the incumbent DATCP employees who would be transferred to DOJ would maintain all their civil service and other employee rights held prior to transfer. Further, transfer all tangible personal property, records, pending matters, contracts and contract responsibilities relating to transferred consumer protection provisions and specify that all rules and orders relating to the transferred consumer protection provisions remain in effect until their specified expiration date or until modified or rescinded by DOJ. Provide that if the agencies were unable to agree on an equitable division or transfer of staff, the Secretary of Administration would settle the dispute. Further, provide that if either Department is dissatisfied with the Secretary's decision, the Department may bring the matter to the Joint Committee on Finance for affirmation or modification of the decision.

Under the provisions, DOJ would house 35.3 positions related to consumer protection, as shown in the following table.

<u>Position Titles</u>	<u>Current DATCP</u>	<u>Eliminated DATCP</u>	<u>Transferred to DOJ</u>	<u>Current DOJ</u>	<u>New DOJ</u>	<u>Proposed DOJ</u>
Administrator	0.45	0.45				
Attorney	2.00		2.00	4.80		6.80
Budget Policy Supervisor	0.30	0.30				
Communications Specialist	0.50	0.50				
Consumer Complaint Supervisor	1.00		1.00			1.00
Consumer Protection Bureau Director	0.75	0.75				
Consumer Protection Investigator	13.65	9.65	4.00	2.00		6.00
Consumer Protection Investigator Supervisor	4.00	3.00	1.00			1.00
Consumer Specialist	11.15	5.65	5.50		8.50	14.00
Legal Assistant				0.50		0.50
Legal Secretary	0.50	0.50		1.00		1.00
Paralegal				1.00	2.00	3.00
Program & Planning Analyst	0.80	0.80				
Program Assistant	<u>8.65</u>	<u>6.65</u>	<u>2.00</u>			<u>2.00</u>
Total Consumer Protection Positions	43.75	28.25	15.50	9.30	10.50	35.30

## 2. EXCLUDE MOTOR VEHICLE FUEL FROM UNFAIR SALES ACT PROVISIONS

Specifically exclude motor vehicle fuel sales from the unfair sales act (minimum mark-up and loss leader) provisions of the statutes. Further, allow motor vehicle fuel to be exempt from determining sales below cost or subject to minimum markup requirements when sold in combination with or on condition of the purchase of any other items. Allow the sale of motor vehicle fuel at less than cost for any reason (including to induce the purchase of other merchandise or to divert trade from a competitor).

Under current law, the unfair sales act requires wholesalers and retailers of motor vehicle fuel to sell fuel for a certain percentage above their cost to obtain the fuel. The law also prohibits the sale of most items at less than cost in order to induce the purchase of other merchandise or to divert trade unfairly from a competitor.

## 3. TOBACCO PRODUCT MINIMUM MARK-UP VIOLATIONS

Allow a person who is injured or threatened with injury as a result of a sale or purchase of cigarettes or other tobacco products in violation of the minimum mark-up law to bring an action against the violator for either (a) temporary or permanent injunctive relief; or (b) three times the amount of any monetary loss sustained or an amount equal to \$2,000, whichever is greater, multiplied by each day of continued violation, together with costs, including accounting fees and reasonable attorney fees. Further, allow an association of cigarette wholesalers to bring such an action on behalf of the person who is injured or threatened with injury as a result of a sale or purchase of cigarettes or other tobacco products in violation of the minimum mark-up law.

## 4. TELEPHONE SOLICITATION REGULATION

Provide \$230,900 annually and 5.5 positions in a new, continuing appropriation to create and maintain a telephone nonsolicitation directory. Fees would be paid through a telephone solicitor registration system.

	Chg. to JFC Funding Positions	
PR-REV	\$230,900	
PR	\$461,800	5.50

Require DATCP to promulgate rules for establishing, maintaining and semiannually updating a directory that includes listings of residential customers who do not wish to receive telephone solicitations from a telephone solicitor (a person, other than an employee or contractor of a nonprofit organization, that employs or contracts with an individual to make a telephone solicitation). Define a nonprofit organization as a tax-exempt corporation, association or organization under 501 c (3), (4), (5) or (19) of the Internal Revenue Code. Define a telephone solicitation as the unsolicited initiation of a telephone conversation for the purpose of encouraging the recipient of the telephone call to purchase property, goods or services or to make a contribution, donation, grant or pledge of money, credit, property or other thing of any kind or value. Require DATCP by rule to establish requirements and procedures for a

2001

Date (time) needed Soon

LRB b 1431 / 1 RMR

**ADC CAUCUS BUDGET AMENDMENT  
[ONLY FOR CAUCUS]**

MGS : [Signature] : \_\_\_\_\_

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**CAUCUS AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1  
TO 2001 SENATE BILL 55**

>>FOR CAUCUS SUPERAMENDMENT — NOT FOR INTRODUCTION<<

At the locations indicated, amend the substitute amendment as follows:

#. Page . . . . , line . . . . :

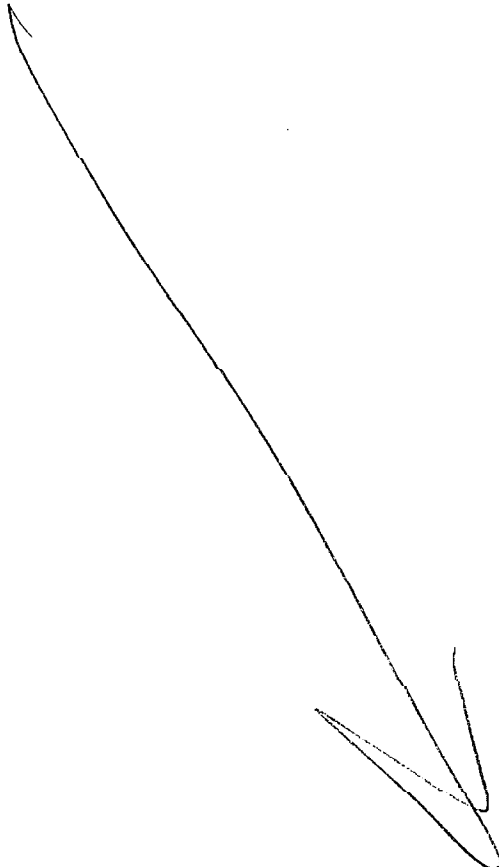
#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

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#. Page . . . . , line . . . . :





*No changes*

SDC:.....Keckhaver - CN1015, Transfer of certain consumer protection functions from DATCP to DOJ

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT**

**TO SENATE SUBSTITUTE AMENDMENT 1,**

**TO 2001 SENATE BILL 55**

At the locations indicated, amend the substitute amendment as follows:

1. Page 107, line 17: decrease the dollar amount for fiscal year 2001-02 by \$2,106,100 and decrease the dollar amount for fiscal year 2002-03 by \$2,106,100, and adjust the NET APPROPRIATION totals accordingly, to reflect the transfer of certain consumer information programs, functions, and enforcement activities to the department of justice and to decrease the authorized FTE positions of the department of agriculture, trade and consumer protection by 37.25 GPR positions related to those consumer information programs, functions, and enforcement activities.

1           **2.** Page 107, line 17: increase the dollar amount for fiscal year 2001–02 by  
 2           \$57,200 and increase the dollar amount for fiscal year 2002–03 by \$57,200, and  
 3           adjust the NET APPROPRIATION totals accordingly, to transfer funding for 1.0 FTE  
 4           GPR position of the department of agriculture, trade and consumer protection that  
 5           is related to the enforcement of chapter 98 of the statutes.

6           **3.** Page 107, line 18: delete that line.

7           **4.** Page 112, line 8: decrease the dollar amount for fiscal year 2001–02 by  
 8           \$292,400 and decrease the dollar amount for fiscal year 2002–03 by \$292,400 to  
 9           reflect the transfer of certain consumer information programs, functions, and  
 10          enforcement activities to the department of justice and to decrease the authorized  
 11          FTE positions of the department of agriculture, trade and consumer protection by 2.5  
 12          GPR positions related to those consumer information programs, functions, and  
 13          enforcement activities.

14          **5.** Page 228, line 3: increase the dollar amount for fiscal year 2001–02 by  
 15          \$1,281,000 and increase the dollar amount for fiscal year 2002–03 by \$1,502,200 to  
 16          reflect the transfer of certain consumer information programs, functions, and  
 17          enforcement activities from the department of agriculture, trade, and consumer  
 18          protection and to increase the authorized FTE positions of the department of justice  
 19          by 26.0 GPR positions related to those consumer information programs, functions,  
 20          and enforcement activities.

21          **6.** Page 228, line 5: after that line insert:

22          “(g)   Consumer protection, informa-  
 23                  tion, and education                                   PR       A       175,000    175,000”.

24          **7.** Page 294, line 2: before that line insert:

1           **“SECTION 395m.** 20.115 (1) (c) of the statutes is repealed.

2           **SECTION 400m.** 20.115 (1) (hm) of the statutes is amended to read:

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

9           **8.** Page 377, line 4: after that line insert:

10           **“SECTION 762m.** 20.455 (1) (title) of the statutes is amended to read:

11           20.455 (1) (title) LEGAL AND REGULATORY SERVICES.

12           **SECTION 762r.** 20.455 (1) (g) of the statutes is created to read:

13           20.455 (1) (g) *Consumer protection, information, and education.* The amounts  
14 in the schedule for consumer protection and consumer information and education.  
15 All moneys received under s. 100.261 (3) (d) shall be credited to this appropriation  
16 account, subject to the limit under s. 100.261 (e).”.

17           **9.** Page 882, line 16: after that line insert:

18           **“SECTION 2383m.** 93.07 (1) of the statutes is amended to read:

19           93.07 (1) REGULATIONS. To make and enforce such regulations, not inconsistent  
20 with law, as it may deem necessary for the exercise and discharge of all the powers  
21 and duties of the department, and to adopt such measures and make such  
22 regulations as are necessary and proper for the enforcement by the state of  
23 department to carry out its duties and powers under chs. 93 to 100, which regulations  
24 shall have the force of law.

1           **SECTION 2383p.** 93.07 (23) of the statutes is created to read:

2           **93.07 (23) CONSUMER PROTECTION ADMINISTRATION.** To administer ss. 100.01 to  
3 100.03, 100.05 to 100.07, 100.14, 100.183 to 100.19, 100.201, 100.206, 100.208,  
4 100.21, 100.22, 100.235, 100.265, 100.27, 100.285 to 100.297, 100.30, 100.33 to  
5 100.36, 100.45, 100.47, 100.48, and 100.51 and to enforce ss. 100.206, 100.21, 100.30,  
6 and 100.51.

7           **SECTION 2383q.** 93.07 (24) of the statutes is amended to read:

8           **93.07 (24) ENFORCEMENT OF LAWS.** To enforce or assist in the enforcement of chs.  
9 88 and 93 to 100 and all other laws entrusted to its administration, and especially:

10           (a) To enforce the laws administered by the department regarding the  
11 production, manufacture and sale, offering or exposing for sale or having in  
12 possession with intent to sell, of any dairy, food or drug product.

13           (b) To enforce the laws administered by the department regarding the  
14 adulteration or misbranding of any articles of food, drink, condiment or drug.

15           (c) To inspect any milk, butter, cheese, lard, syrup, coffee, tea or other article  
16 of food, drink, condiment or drug made or offered for sale within this state which it  
17 may suspect or have reason to believe, under the laws administered by the  
18 department, to be impure, unhealthful, misbranded, adulterated or counterfeit, or  
19 in any way unlawful.

20           (d) To prosecute or cause to be prosecuted, under the laws administered by the  
21 department, any person engaged in the manufacture or sale, offering or exposing for  
22 sale or having in possession with intent to sell, of any adulterated dairy product or  
23 of any adulterated, misbranded, counterfeit, or otherwise unlawful article or articles  
24 of food, drink, condiment or drug.

25           **SECTION 2387m.** 93.18 (3) of the statutes is amended to read:

1           93.18 (3) The department of justice, after acting pursuant to s. 100.37 or 100.41  
2 to 100.43 to order the sale or distribution of any substance, article, furnishing, fabric,  
3 product or related material ceased, shall give written notice of its finding to the  
4 manufacturer, seller or other person responsible for placing the item in the channels  
5 of trade in this state. After such notice no person may sell, remove or otherwise  
6 dispose of such item except as directed by the department. Any person affected by  
7 such notice may demand a prompt hearing to determine the validity of the  
8 department's findings. The hearing, if requested, shall be held as expeditiously as  
9 possible but not later than 30 days after notice. A request for hearing does not  
10 operate to stay enforcement of the order during the pendency of the hearing. The  
11 person petitioning for a hearing shall be entitled to the same rights specified under  
12 sub. (2).

13           **SECTION 2387r.** 93.18 (7) of the statutes is created to read:

14           93.18 (7) The department of justice shall follow the procedures under subs. (1),  
15 (2), (4), (5), and (6) in enforcing the provisions of ch. 100 that are administered by the  
16 department of justice.

17           **SECTION 2388m.** 93.20 (1) of the statutes is amended to read:

18           93.20 (1) DEFINITION. In this section, "action" means an action that is  
19 commenced in court by, or on behalf of, the department of agriculture, trade and  
20 consumer protection to enforce chs. 88, 91 to 100 or 127 or an action that is  
21 commenced in court by the department of justice to enforce ch. 100.

22           **SECTION 2389k.** 93.22 (1) of the statutes is amended to read:

23           93.22 (1) In cases arising under chs. 88 and 93 to ~~100~~ 99 and ss. 100.206, 100.21,  
24 100.30, and 100.51, the department may be represented by its attorney.

25           **SECTION 2389m.** 93.22 (2) of the statutes is amended to read:

1           93.22 (2) The department may, with the approval of the governor, appoint  
2 special counsel to prosecute or assist in the prosecution of any case arising under chs.  
3 88 and 93 to ~~100~~ 99 and ss. 100.206, 100.21, 100.30, and 100.51. The cost of such  
4 special counsel shall be charged to the appropriation for the department.”.

5           **10.** Page 889, line 1: after that line insert:

6           “**SECTION 2405d.** 100.07 (6) of the statutes is amended to read:

7           100.07 (6) ~~Action~~ Upon request of the department, an action to enjoin violation  
8 of this section may be commenced and prosecuted by the department of justice in the  
9 name of the state in any court having equity jurisdiction.

10          **SECTION 2405g.** 100.171 (7) (b) of the statutes is amended to read:

11          100.171 (7) (b) Whoever intentionally violates this section may be fined not  
12 more than \$10,000 or imprisoned for not more than 3 years or both. A person  
13 intentionally violates this section if the violation occurs after the department of  
14 justice or a district attorney has notified the person by certified mail that the person  
15 is in violation of this section.

16          **SECTION 2405h.** 100.171 (8) (intro.) of the statutes is amended to read:

17          100.171 (8) **ENFORCEMENT.** (intro.) The department of justice shall investigate  
18 violations of this section. The department of justice or any district attorney may on  
19 behalf of the state:

20          **SECTION 2405j.** 100.173 (4) (intro.) of the statutes is amended to read:

21          100.173 (4) (intro.) The department of justice shall investigate violations of this  
22 section. The department of justice, or any district attorney upon informing the  
23 department of justice, may, on behalf of the state, do any of the following:

24          **SECTION 2405k.** 100.173 (4) (a) of the statutes is amended to read:

1           100.173 (4) (a) Bring an action for temporary or permanent injunctive relief in  
2 any court of competent jurisdiction for any violation of this section. The relief sought  
3 by the department of justice or district attorney may include the payment by a  
4 promoter into an escrow account of an amount estimated to be sufficient to pay for  
5 ticket refunds. The court may, upon entry of final judgment, award restitution when  
6 appropriate to any person suffering loss because of violations of this section if proof  
7 of such loss is submitted to the satisfaction of the court.

8           **SECTION 2405m.** 100.174 (5) (intro.) of the statutes is amended to read:

9           100.174 (5) (intro). The department of justice or any district attorney may on  
10 behalf of the state:

11           **SECTION 2405n.** 100.174 (6) of the statutes is amended to read:

12           100.174 (6) The department of justice shall investigate violations of and  
13 enforce this section.

14           **SECTION 2405p.** 100.175 (5) (a) (intro.) of the statutes is amended to read:

15           100.175 (5) (a) (intro.) No person may collect or by contract require a buyer to  
16 pay more than \$100 for dating services before the buyer receives or has the  
17 opportunity to receive those services unless the person selling dating services  
18 establishes proof of financial responsibility by maintaining any of the following  
19 commitments approved by the department of justice in an amount not less than  
20 \$25,000:

21           **SECTION 2405q.** 100.175 (5) (b) of the statutes is amended to read:

22           100.175 (5) (b) The commitment described in par. (a) shall be established in  
23 favor of or made payable to the state, for the benefit of any buyer who does not receive  
24 a refund under the contractual provision described in sub. (3). The person selling  
25 dating services shall file with the department of justice any agreement, instrument

1 or other document necessary to enforce the commitment against the person selling  
2 dating services or any relevant 3rd party, or both.

3 **SECTION 2405r.** 100.175 (7) (a) (intro.) of the statutes is amended to read:

4 100.175 (7) (a) (intro.) The department of justice or any district attorney may  
5 on behalf of the state:

6 **SECTION 2405rm.** 100.175 (7) (b) of the statutes is amended to read:

7 100.175 (7) (b) The department of justice may bring an action in circuit court  
8 to recover on a financial commitment maintained under sub. (5) against a person  
9 selling dating services or relevant 3rd party, or both, on behalf of any buyer who does  
10 not receive a refund due under the contractual provision described in sub. (3).

11 **SECTION 2405s.** 100.177 (1) (bm) of the statutes is created to read:

12 100.177 (1) (bm) Notwithstanding s. 93.01 (3), “department” means the  
13 department of justice.

14 **SECTION 2405t.** 100.178 (1) (b) of the statutes is amended to read:

15 100.178 (1) (b) Notwithstanding s. 93.01 (3), “department” means the  
16 department of ~~health and family services~~ justice.

17 **SECTION 2405u.** 100.18 (11) (a) of the statutes is amended to read:

18 100.18 (11) (a) The department of ~~agriculture, trade and consumer protection~~  
19 justice shall enforce this section. Actions to enjoin violation of this section or any  
20 regulations thereunder may be commenced and prosecuted by the department of  
21 justice in the name of the state in any court having equity jurisdiction. This remedy  
22 is not exclusive.

23 **SECTION 2405um.** 100.18 (11) (b) 3. of the statutes is amended to read:

24 100.18 (11) (b) 3. No action may be commenced under this section more than  
25 3 years after the occurrence of the unlawful act or practice which is the subject of the



1 action. No injunction may be issued under this section which would conflict with  
2 general or special orders of the department of justice or any statute, rule or  
3 regulation of the United States or of this state.

4 **SECTION 2405wc.** 100.18 (11) (c) 1. of the statutes is amended to read:

5 100.18 (11) (c) 1. Whenever the department of justice has reason to believe that  
6 a person is in possession, custody or control of any information or documentary  
7 material relevant to the enforcement of this section it may require that person to  
8 submit a statement or report, under oath or otherwise, as to the facts and  
9 circumstances concerning any activity in the course of trade or commerce; examine  
10 under oath that person with respect to any activity in the course of trade or  
11 commerce; and execute in writing and cause to be served upon such person a civil  
12 investigative demand requiring the person to produce any relevant documentary  
13 material for inspection and copying.

14 **SECTION 2405we.** 100.18 (11) (c) 2. of the statutes is amended to read:

15 100.18 (11) (c) 2. The department of justice, in exercising powers under this  
16 subsection, may issue subpoenas, administer oaths and conduct hearings to aid in  
17 any investigation.

18 **SECTION 2405wg.** 100.18 (11) (c) 3. of the statutes is amended to read:

19 100.18 (11) (c) 3. Service of any notice by the department of justice requiring  
20 a person to file a statement or report, or service of a subpoena upon a person, or  
21 service of a civil investigative demand shall be made in compliance with the rules of  
22 civil procedure of this state.

23 **SECTION 2405wj.** 100.18 (11) (c) 4. of the statutes is amended to read:

24 100.18 (11) (c) 4. If a person fails to file any statement or report, or fails to  
25 comply with any civil investigative demand, or fails to obey any subpoena issued by

1 the department of justice, such person may be coerced as provided in s. 885.12, except  
2 that no person shall be required to furnish any testimony or evidence under this  
3 subsection which might tend to incriminate the person.

4 **SECTION 2406m.** 100.18 (11) (d) of the statutes is amended to read:

5 100.18 (11) (d) ~~The department or the department of justice, after consulting~~  
6 ~~with the department,~~ or any district attorney, upon informing the department of  
7 justice, may commence an action in circuit court in the name of the state to restrain  
8 by temporary or permanent injunction any violation of this section. The court may  
9 in its discretion, prior to entry of final judgment, make such orders or judgments as  
10 may be necessary to restore to any person any pecuniary loss suffered because of the  
11 acts or practices involved in the action, provided proof thereof is submitted to the  
12 satisfaction of the court. ~~The department and the department of justice may~~  
13 subpoena persons and require the production of books and other documents, ~~and the~~  
14 ~~department of justice may request the department to exercise its authority under~~  
15 ~~par. (e) to aid in the investigation of alleged violations of this section.~~

16 **SECTION 2407d.** 100.18 (11) (e) of the statutes is amended to read:

17 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this  
18 section, ~~the department or the department of justice~~ may accept a written assurance  
19 of discontinuance of any act or practice alleged to be a violation of this section from  
20 the person who has engaged in such act or practice. The acceptance of such assurance  
21 by ~~either the department or the department of justice~~ shall be deemed acceptance by  
22 ~~the other state officials enumerated in par. (d)~~ any district attorney if the terms of  
23 the assurance so provide. An assurance entered into pursuant to this section shall  
24 not be considered evidence of a violation of this section, provided that violation of

1 such an assurance shall be treated as a violation of this section, and shall be  
2 subjected to all the penalties and remedies provided therefor.

3 **SECTION 2407g.** 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 justice may seek a temporary or permanent injunction in circuit  
6 court to restrain any violation of this section. Prior to entering a final judgment the  
7 court may award damages to any person suffering monetary loss because of a  
8 violation. The department of justice may subpoena any person or require the  
9 production of any document to aid in investigating alleged violations of this section.

10 **SECTION 2407m.** 100.182 (5) (b) of the statutes is amended to read:

11 100.182 (5) (b) In lieu of instituting or continuing an action under this  
12 subsection, the department of justice may accept a written assurance from a violator  
13 of this section that the violation has ceased. If the terms of the assurance so provide,  
14 its acceptance by the department of justice prevents all district attorneys from  
15 prosecuting the violation. An assurance is not evidence of a violation of this section  
16 but violation of an assurance is subject to the penalties and remedies of violating this  
17 section.

18 **SECTION 2407r.** 100.20 (2) (a) of the statutes is amended to read:

19 100.20 (2) (a) The department of justice, after public hearing, may issue  
20 general orders forbidding methods of competition in business or trade practices in  
21 business which are determined by the department of justice to be unfair. The  
22 department of justice, after public hearing, may issue general orders prescribing  
23 methods of competition in business or trade practices in business which are  
24 determined by the department of justice to be fair.”

1           **11.** Page 889, line 3: after “department” insert “of justice”.

2           **12.** Page 889, line 8: after that line insert:

3           “**SECTION 2408m.** 100.20 (3) of the statutes is amended to read:

4           100.20 (3) The department of justice, after public hearing, may issue a special  
5 order against any person, enjoining such person from employing any method of  
6 competition in business or trade practice in business which is determined by the  
7 department of justice to be unfair or from providing service in violation of sub. (1t).  
8 The department of justice, after public hearing, may issue a special order against any  
9 person, requiring such person to employ the method of competition in business or  
10 trade practice in business which is determined by the department of justice to be fair.

11          **SECTION 2409b.** 100.20 (4) of the statutes is amended to read:

12          100.20 (4) ~~The~~ If the department of justice ~~may file a written complaint with~~  
13 ~~the department alleging that the~~ has reason to believe that a person named is  
14 employing unfair methods of competition in business or unfair trade practices in  
15 business or both. ~~Whenever such a complaint is filed,~~ it shall be the duty of the  
16 department of justice to proceed, after proper notice and in accordance with its rules,  
17 to the hearing and adjudication of the ~~matters alleged, and a representative of the~~  
18 ~~department of justice designated by the attorney general may appear before the~~  
19 ~~department in such proceedings. The department of justice shall be entitled to~~  
20 ~~judicial review of the decisions and orders of the department under ch. 227 matter.~~

21          **SECTION 2409c.** 100.20 (6) of the statutes is amended to read:

22          100.20 (6) The department of justice may commence an action in circuit court  
23 in the name of the state to restrain by temporary or permanent injunction the  
24 violation of any order issued under this section. The court may in its discretion, prior

1 to entry of final judgment make such orders or judgments as may be necessary to  
2 restore to any person any pecuniary loss suffered because of the acts or practices  
3 involved in the action, provided proof thereof is submitted to the satisfaction of the  
4 court. The department of justice may use its authority in ss. 93.14 and 93.15 to  
5 investigate violations of any order issued under this section.

6 **SECTION 2409d.** 100.201 (6) (d) of the statutes is amended to read:

7 100.201 (6) (d) The failure to pay fees under this subsection within the time  
8 provided under par. (c) is a violation of this section. The department of justice may  
9 also commence an action to recover the amount of any overdue fees plus interest at  
10 the rate of 2% per month for each month that the fees are delinquent.

11 **SECTION 2409e.** 100.201 (8m) (intro.) of the statutes is amended to read:

12 100.201 (8m) JURISDICTION. (intro.) This section shall apply to transactions,  
13 acts or omissions which take place in whole or in part outside this state. In any action  
14 or administrative proceeding the department of justice has jurisdiction of the person  
15 served under s. 801.11 when any act or omission outside this state by the defendant  
16 or respondent results in local injury or may have the effect of injuring competition  
17 or a competitor in this state or unfairly diverts trade or business from a competitor,  
18 if at the time:

19 **SECTION 2409f.** 100.201 (9) (b) of the statutes is amended to read:

20 100.201 (9) (b) The department, after public hearing held under s. 93.18, may  
21 issue a special order against any person requiring such person to cease and desist  
22 from acts, practices or omissions determined by the department to violate this  
23 section. Such orders shall be subject to judicial review under ch. 227. Any violation  
24 of a special order issued hereunder shall be punishable as a contempt under ch. 785  
25 in the manner provided for disobedience of a lawful order of a court, upon the filing

1 of an affidavit by the department of justice of the commission of such violation in any  
2 court of record in the county where the violation occurred.

3 **SECTION 2409g.** 100.201 (9) (c) of the statutes is amended to read:

4 100.201 (9) (c) The department of justice, in addition to or in lieu of any other  
5 remedies herein provided, may apply to a circuit court for a temporary or permanent  
6 injunction to prevent, restrain or enjoin any person from violating this section or any  
7 special order of the department of agriculture, trade and consumer protection issued  
8 hereunder under this section, without being compelled to allege or prove that an  
9 adequate remedy at law does not exist.

10 **SECTION 2409p.** 100.205 (7) of the statutes is amended to read:

11 100.205 (7) The department of justice, or any district attorney on informing the  
12 department of justice, may commence an action in circuit court in the name of the  
13 state to restrain by temporary or permanent injunction any violation of this section.  
14 The court may, before entry of final judgment and after satisfactory proof, make  
15 orders or judgments necessary to restore to any person any pecuniary loss suffered  
16 because of a violation of this section. The department of justice may conduct  
17 hearings, administer oaths, issue subpoenas and take testimony to aid in its  
18 investigation of violations of this section.

19 **SECTION 2409r.** 100.205 (8) of the statutes is amended to read:

20 100.205 (8) The department of justice or any district attorney may commence  
21 an action in the name of the state to recover a forfeiture to the state of not more than  
22 \$10,000 for each violation of this section.

23 **SECTION 2410m.** 100.207 (6) (b) 1. of the statutes is amended to read:

24 100.207 (6) (b) 1. The department of justice, ~~after consulting with the~~  
25 ~~department of agriculture, trade and consumer protection~~, or any district attorney

1 upon informing the department of ~~agriculture, trade and consumer protection~~  
2 justice, may commence an action in circuit court in the name of the state to restrain  
3 by temporary or permanent injunction any violation of this section. Injunctive relief  
4 may include an order directing telecommunications providers, as defined in s. 196.01  
5 (8p), to discontinue telecommunications service provided to a person violating this  
6 section or ch. 196. Before entry of final judgment, the court may make such orders  
7 or judgments as may be necessary to restore to any person any pecuniary loss  
8 suffered because of the acts or practices involved in the action if proof of these acts  
9 or practices is submitted to the satisfaction of the court.

10 **SECTION 2411m.** 100.207 (6) (b) 2. of the statutes is amended to read:

11 100.207 (6) (b) 2. The department ~~may exercise its authority under ss. 93.14~~  
12 ~~to 93.16 and 100.18 (11) (c) to~~ of justice shall administer this section. The department  
13 ~~and the department of justice~~ may subpoena persons and, require the production of  
14 books and other documents, and ~~the department of justice may request the~~  
15 ~~department of agriculture, trade and consumer protection to exercise its authority~~  
16 ~~to aid in the investigation of~~ investigate alleged violations of this section.

17 **SECTION 2412m.** 100.207 (6) (c) of the statutes is amended to read:

18 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to  
19 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this  
20 paragraph shall be enforced by the department of justice, ~~after consulting with the~~  
21 ~~department of agriculture, trade and consumer protection,~~ or, upon informing the  
22 department of justice, by the district attorney of the county where the violation  
23 occurs.

24 **SECTION 2412q.** 100.207 (6) (e) of the statutes is amended to read:

1           100.207 (6) (e) Subject to par. (em), the department of justice shall promulgate  
2 rules under this section.

3           **SECTION 2413c.** 100.207 (6) (em) 1. of the statutes is amended to read:

4           100.207 (6) (em) 1. Before preparing any proposed rule under this section, the  
5 department of justice shall form an advisory group to suggest recommendations  
6 regarding the content and scope of the proposed rule. The advisory group shall  
7 consist of one or more persons who may be affected by the proposed rule, ~~a~~  
8 ~~representative from the department of justice~~ and a representative from the public  
9 service commission.

10          **SECTION 2413e.** 100.207 (6) (em) 2. of the statutes is amended to read:

11          100.207 (6) (em) 2. The department of justice shall submit the  
12 recommendations under subd. 1., if any, to the legislature as part of the report  
13 required under s. 227.19 (2) ~~and to the board of agriculture, trade and consumer~~  
14 ~~protection.~~

15          **SECTION 2413g.** 100.208 (2) (intro.) of the statutes is amended to read:

16          100.208 (2) (intro.) The department of justice shall notify the public service  
17 commission if any of the following conditions exists:

18          **SECTION 2413h.** 100.208 (2) (b) of the statutes is amended to read:

19          100.208 (2) (b) The department of justice has issued an order under s. 100.20  
20 (3) prohibiting a telecommunications provider from engaging in an unfair trade  
21 practice or method of competition.

22          **SECTION 2413j.** 100.209 (3) of the statutes is amended to read:

23          100.209 (3) RULES AND LOCAL ORDINANCES ALLOWED. This section does not  
24 prohibit the department of justice from promulgating a rule or from issuing an order  
25 consistent with its authority under this chapter that gives a subscriber greater rights



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

3 **SECTION 2413k.** 100.209 (4) (b) of the statutes is amended to read:

4 100.209 (4) (b) The department of justice and the district attorneys of this state  
5 have concurrent authority to institute civil proceedings under this section.

6 **SECTION 2413m.** 100.2095 (6) (b) of the statutes is amended to read:

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

12 **SECTION 2413n.** 100.2095 (6) (c) of the statutes is amended to read:

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

16 **SECTION 2413p.** 100.21 (2) (a) of the statutes is amended to read:

17 100.21 (2) (a) No person may make an energy savings or safety claim without  
18 a reasonable and currently accepted scientific basis for the claim when the claim is  
19 made. Making an energy savings or safety claim without a reasonable and currently  
20 accepted scientific basis is also an unfair method of competition and trade practice  
21 prohibited under s. 100.20.

22 **SECTION 2413r.** 100.21 (4) (a) (intro.) of the statutes is amended to read:

23 100.21 (4) (a) (intro.) The department may, after public hearing, issue general  
24 or special orders ~~under s. 100.20:~~

25 **SECTION 2413t.** 100.22 (4) (b) of the statutes is amended to read:

1           100.22 (4) (b) The department of justice may, without alleging or proving that  
2 no other adequate remedy at law exists, bring an action to enjoin violations of this  
3 section or a special order issued under this section in the circuit court for the county  
4 where the alleged violation occurred.

5           **SECTION 2418m.** 100.235 (11) (a) of the statutes is amended to read:

6           100.235 (11) (a) *Forfeiture.* Any person who violates this section or any rule  
7 promulgated or order issued under this section may be required to forfeit not less  
8 than \$100 nor more than \$10,000. ~~Notwithstanding s. 165.25 (1), the department~~  
9 ~~may commence an action to recover a forfeiture under this paragraph.~~

10          **SECTION 2421m.** 100.26 (6) of the statutes is amended to read:

11          100.26 (6) ~~The department, the department of justice, after consulting with the~~  
12 ~~department, or any district attorney may commence an action in the name of the~~  
13 ~~state to recover a civil forfeiture to the state of not less than \$100 nor more than~~  
14 ~~\$10,000 for each violation of~~ Any person violating an injunction issued under s.  
15 100.18, 100.182 or 100.20 (6). ~~The department of agriculture, trade and consumer~~  
16 ~~protection or any district attorney may commence an action in the name of the state~~  
17 ~~to recover a civil~~ is subject to a forfeiture of not less than \$100 nor more than \$10,000  
18 for each violation. Any person violating an order issued under s. 100.20 is subject  
19 to a forfeiture to the state of not less than \$100 nor more than \$10,000 for each  
20 violation of an order issued under s. 100.20.”.

21          **13.** Page 890, line 8: delete lines 8 to 12 and substitute:

22          **“SECTION 2426b.** 100.261 (3) (b) 1. of the statutes is renumbered 100.261 (3)

23 (b) and amended to read:

1           100.261 (3) (b) The state treasurer shall deposit the consumer protection  
2           assessment amounts imposed for a violation of ch. 98, a rule promulgated under ch.  
3           98, or an ordinance enacted under ch. 98 in the general fund and shall credit them  
4           to the appropriation account under s. 20.115 (1) (jb), subject to the limit under ~~subd.~~  
5           ~~2. par. (c).~~”.

6           **14.** Page 890, line 16: after that line insert:

7           “**SECTION 2427b.** 100.261 (3) (d) of the statutes is created to read:

8           100.261 (3) (d) The state treasurer shall deposit the consumer protection  
9           assessment amounts imposed for a violation of this chapter, a rule promulgated  
10          under this chapter, or an ordinance enacted under this chapter in the general fund  
11          and shall credit them to the appropriation account under s. 20.455 (1) (g), subject to  
12          the limit under par. (e).

13          **SECTION 2427d.** 100.261 (3) (e) of the statutes is created to read:

14          100.261 (3) (e) The amount credited to the appropriation account under s.  
15          20.455 (1) (g) may not exceed \$185,000 in each fiscal year.”.

16          **15.** Page 890, line 16: after that line insert:

17          “**SECTION 2428m.** 100.263 of the statutes is amended to read:

18          **100.263 Recovery.** In addition to other remedies available under this chapter,  
19          the court may award ~~the department~~ the reasonable and necessary costs of  
20          investigation and an amount reasonably necessary to remedy the harmful effects of  
21          the violation and the court may award ~~the department of justice~~ the reasonable and  
22          necessary expenses of prosecution, including attorney fees, from any person who  
23          violates this chapter. ~~The department and the department of justice~~ amounts  
24          awarded under this subsection shall deposit ~~bc deposited~~ in the state treasury for

1 deposit in the general fund ~~all moneys that the court awards to the department, the~~  
2 ~~department of justice or the state under this section.~~ Ten percent of the money  
3 deposited in the general fund that was awarded under this section for the costs of  
4 investigation and the expenses of prosecution, including attorney fees, shall be  
5 credited to the appropriation account under s. 20.455 (1) (gh).

6 **SECTION 2429g.** 100.28 (4) (b) of the statutes is amended to read:

7 100.28 (4) (b) In lieu of or in addition to forfeitures under par. (a), the  
8 department of justice may seek an injunction restraining any person from violating  
9 this section.

10 **SECTION 2429m.** 100.28 (4) (c) of the statutes is amended to read:

11 100.28 (4) (c) The department of justice, or any district attorney upon the  
12 request of the department of justice, may commence an action in the name of the  
13 state under par. (a) or (b).

14 **SECTION 2430c.** 100.31 (4) of the statutes is amended to read:

15 100.31 (4) PENALTIES. For any violation of this section, the department of  
16 justice or a district attorney may commence an action on behalf of the state to recover  
17 a forfeiture of not less than \$100 nor more than \$10,000 for each offense. Each  
18 delivery of a drug sold to a purchaser at a price in violation of this section and each  
19 separate day in violation of an injunction issued under this section is a separate  
20 offense.

21 **SECTION 2430f.** 100.31 (5) of the statutes is amended to read:

22 100.31 (5) SPECIAL REMEDIES. The department of justice or a district attorney  
23 may bring an action to enjoin a violation of this section without being compelled to  
24 allege or prove that an adequate remedy at law does not exist. An action under this  
25 subsection may be commenced and prosecuted by the department of justice or a

1 district attorney, in the name of the state, in a circuit court in the county where the  
2 offense occurred or in Dane County, notwithstanding s. 801.50.

3 **SECTION 2430h.** 100.37 (1) (am) of the statutes is created to read:

4 100.37 (1) (am) Notwithstanding s. 93.01 (3), “department” means the  
5 department of justice.

6 **SECTION 2432g.** 100.38 (5) of the statutes is amended to read:

7 100.38 (5) INSPECTION. The department of justice shall enforce this section by  
8 inspection, chemical analyses or any other appropriate method and the department  
9 of justice may promulgate such rules as are necessary to effectively enforce this  
10 section.

11 **SECTION 2432j.** 100.38 (6) of the statutes is amended to read:

12 100.38 (6) ENFORCEMENT. It is unlawful to sell any antifreeze which is  
13 adulterated or misbranded. In addition to the penalties provided under sub. (7), the  
14 department of justice may bring an action to enjoin violations of this section.

15 **SECTION 2432m.** 100.41 (1) (bn) of the statutes is created to read:

16 100.41 (1) (bn) Notwithstanding s. 93.01 (3), “department” means the  
17 department of justice.

18 **SECTION 2432p.** 100.42 (1) (cm) of the statutes is created to read:

19 100.42 (1) (cm) Notwithstanding s. 93.01 (3), “department” means the  
20 department of justice.

21 **SECTION 2433g.** 100.43 (1) (am) of the statutes is created to read:

22 100.43 (1) (am) Notwithstanding s. 93.01 (3), “department” means the  
23 department of justice.

24 **SECTION 2433m.** 100.44 (5) of the statutes is amended to read:

1           100.44 (5) ENFORCEMENT. For any violation of sub. (3), the department of justice  
2 may, on behalf of the state, bring an action in any court of competent jurisdiction for  
3 the recovery of forfeitures authorized under sub. (4), for temporary or permanent  
4 injunctive relief and for any other appropriate relief. The court may make any order  
5 or judgment that is necessary to restore to any person any pecuniary loss suffered  
6 because of a violation of sub. (3) if proof of the loss is shown to the satisfaction of the  
7 court.”.

8           **16.** Page 890, line 25: after that line insert:

9           “SECTION 2434g. 100.46 (1) of the statutes is amended to read:

10           100.46 (1) ENERGY CONSERVATION STANDARDS. The department of justice may by  
11 rule adopt energy conservation standards for products that have been established in  
12 or promulgated under 42 USC 6291 to 6309.

13           SECTION 2434i. 100.46 (2) of the statutes is amended to read:

14           100.46 (2) PROHIBITED ACTS; ENFORCEMENT. No person may sell at retail, install  
15 or cause to be installed any product that is not in compliance with rules promulgated  
16 under sub. (1). In addition to other penalties and enforcement procedures, the  
17 department of justice may apply to a court for a temporary or permanent injunction  
18 restraining any person from violating a rule adopted under sub. (1).

19           SECTION 2434k. 100.50 (6) (b) of the statutes is amended to read:

20           100.50 (6) (b) In lieu of or in addition to the remedy under par. (a), the  
21 department of justice may seek an injunction restraining any person from violating  
22 this section.

23           SECTION 2434m. 100.50 (6) (c) of the statutes is amended to read:

1           100.50 (6) (c) The department of justice, or any district attorney upon the  
2 request of the department of justice, may commence an action in the name of the  
3 state under par. (a) or (b).”.

4           **17.** Page 898, line 20: after that line insert:

5           “**SECTION 2489m.** 101.175 (3) (intro.) of the statutes is amended to read:

6           101.175 (3) (intro.) The department, in consultation with the department of  
7 ~~agriculture, trade and consumer protection~~ justice, shall establish by rule quality  
8 standards for local energy resource systems which do not impede development of  
9 innovative systems but which do.”.

10          **18.** Page 940, line 4: after that line insert:

11          “**SECTION 2817m.** 134.71 (12) of the statutes is amended to read:

12          134.71 (12) APPLICATIONS AND FORMS. The department of agriculture, trade and  
13 consumer protection, in consultation with the department of justice, shall develop  
14 applications and other forms required under subs. (5) (intro.) and (8) (c). The  
15 department of agriculture, trade and consumer protection shall print a sufficient  
16 number of applications and forms to provide to counties and municipalities for  
17 distribution to pawnbrokers, secondhand article dealers and secondhand jewelry  
18 dealers at no cost.”.

19          **19.** Page 940, line 10: after that line insert:

20          “**SECTION 2828g.** 136.03 (title) of the statutes is amended to read:

21          **136.03 (title) Duties of the department of ~~agriculture, trade and~~**  
22 **~~consumer protection~~ justice.**

23          **SECTION 2828j.** 136.03 (1) (intro.) of the statutes is amended to read:

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

7           **SECTION 2828m.** 136.04 of the statutes is amended to read:

8           **136.04 Powers of the department of agriculture, ~~trade and consumer~~**  
9 **~~protection justice~~.** (1) The department of agriculture, ~~trade and consumer~~  
10 ~~protection justice~~ may adopt such rules as may be required to carry out the purposes  
11 of this chapter.

12           (2) The department of ~~agriculture, trade and consumer protection justice~~ after  
13 public hearing may issue general or special orders to carry out the purposes of this  
14 chapter and to determine and prohibit unfair trade practices in business or unfair  
15 methods of competition in business pursuant to s. 100.20 (2) to (4).”.

16           **20.** Page 958, line 25: after that line insert:

17           **“SECTION 2854g.** 165.065 (2) of the statutes is amended to read:

18           165.065 (2) The assistant attorney general in charge of antitrust investigations  
19 and prosecutions is to cooperate actively with the antitrust division of the U.S.  
20 department of justice in everything that concerns monopolistic practices in  
21 Wisconsin, and also to cooperate actively with the department of agriculture, trade  
22 and consumer protection in the work which this agency is carrying on ~~under s. 100.20~~  
23 ~~of the marketing law~~ with regard to monopolistic practices in the field of agriculture



1 and with the federal trade commission on matters arising in or affecting Wisconsin  
2 which pertain to its jurisdiction.”.

3 **21.** Page 959, line 8: delete lines 8 to 14 and substitute:

4 “SECTION 2855b. 165.25 (4) (ar) of the statutes is amended to read:

5 165.25 (4) (ar) The department of justice shall furnish ~~all legal services~~  
6 ~~required by~~ represent the department of agriculture, trade and consumer protection  
7 in any court action relating to the enforcement of ss. ~~100.171, 100.173, 100.174,~~  
8 ~~100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21,~~  
9 ~~100.28, 100.50 and 100.51 and chs. 136, 344, 704, 707 and 779~~ 100.01 to 100.03,  
10 100.05 to 100.07, 100.14, 100.183 to 100.19, 100.201, 100.22, 100.235, 100.27,  
11 100.285 to 100.297, 100.33 to 100.36, 100.45, 100.47, and 100.48, together with any  
12 other services as are necessarily connected to the legal services.”.

13 **22.** Page 959, line 24: after that line insert:

14 “SECTION 2856g. 165.25 (11) of the statutes is created to read:

15 165.25 (11) CONSUMER PROTECTION ADMINISTRATION AND ENFORCEMENT.  
16 Administer and enforce ss. 100.15 to 100.182, 100.20, 100.205, 100.207 to 100.2095,  
17 100.28, 100.31, 100.37 to 100.44, 100.46, and 100.50 and chs. 136, 344, 704, 707 and  
18 779. The department may issue general or special orders in administering and  
19 enforcing these provisions.”.

20 **23.** Page 1118, line 21: after that line insert:

21 “SECTION 3427r. 344.576 (3) (a) 5. of the statutes is amended to read:

22 344.576 (3) (a) 5. The address and telephone number of the department of  
23 agriculture, trade and consumer protection justice.

24 SECTION 3427t. 344.576 (3) (c) of the statutes is amended to read:

1           344.576 (3) (c) The department of ~~agriculture, trade and consumer protection~~  
2 justice shall promulgate rules specifying the form of the notice required under par.  
3 (a), including the size of the paper and the type size and any highlighting of the  
4 information described in par. (a). The rule may specify additional information that  
5 must be included in the notice and the precise language that must be used.

6           **SECTION 3427y.** 344.579 (2) (intro.) of the statutes is amended to read:

7           344.579 (2) ENFORCEMENT. (intro.) The department of ~~agriculture, trade and~~  
8 ~~consumer protection~~ justice shall investigate violations of ss. 344.574, 344.576 (1),  
9 (2) and (3) (a) and (b), 344.577 and 344.578. The department of ~~agriculture, trade~~  
10 ~~and consumer protection~~ justice may on behalf of the state.”.

11           **24.** Page 1182, line 6: after that line insert:

12           “**SECTION 3769m.** 704.90 (9) of the statutes is amended to read:

13           704.90 (9) RULES. The department of ~~agriculture, trade and consumer~~  
14 ~~protection~~ justice may promulgate rules necessary to carry out the purposes of this  
15 section.

16           **SECTION 3770d.** 704.90 (11) (title) of the statutes is amended to read:

17           704.90 (11) (title) DUTIES OF THE DEPARTMENT OF ~~AGRICULTURE, TRADE AND~~  
18 ~~CONSUMER PROTECTION~~ JUSTICE.

19           **SECTION 3770f.** 704.90 (11) (a) of the statutes is amended to read:

20           704.90 (11) (a) Except as provided in par. (c), the department of ~~agriculture,~~  
21 ~~trade and consumer protection~~ justice shall investigate alleged violations of this  
22 section and rules promulgated under sub. (9). To facilitate its investigations, the  
23 department may subpoena persons and records and may enforce compliance with the  
24 subpoenas as provided in s. 885.12.

1           **SECTION 3770h.** 707.49 (4) of the statutes is amended to read:

2           707.49 (4) SURETY BOND AND OTHER OPTIONS. Instead of placing deposits in an  
3 escrow account, a developer may obtain a surety bond issued by a company  
4 authorized to do business in this state, an irrevocable letter of credit or a similar  
5 arrangement, in an amount which at all times is not less than the amount of the  
6 deposits otherwise subject to the escrow requirements of this section. The bond,  
7 letter of credit or similar arrangement shall be filed with the department of  
8 ~~agriculture, trade and consumer protection~~ justice and made payable to the  
9 department of ~~agriculture, trade and consumer protection~~ justice for the benefit of  
10 aggrieved parties.

11           **SECTION 3770k.** 707.57 (2) of the statutes is amended to read:

12           707.57 (2) DEPARTMENT OF AGRICULTURE, ~~TRADE AND CONSUMER PROTECTION~~  
13 JUSTICE AUTHORITY. (a) The department of ~~agriculture, trade and consumer~~  
14 ~~protection~~ justice, or any district attorney upon informing the department of  
15 ~~agriculture, trade and consumer protection~~ justice, may commence an action in  
16 circuit court in the name of the state to restrain by temporary or permanent  
17 injunction any violation of this chapter. Before entry of final judgment, the court may  
18 make such orders or judgments as may be necessary to restore to any person any  
19 pecuniary loss suffered because of the acts or practices involved in the action if proof  
20 of these acts or practices is submitted to the satisfaction of the court.

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

24           **SECTION 3770m.** 707.57 (3) of the statutes is amended to read:

1           707.57 (3) PENALTY. Any person who violates this chapter shall be required to  
2           forfeit not more than \$5,000 for each offense. Forfeitures under this subsection shall  
3           be enforced by action on behalf of the state by the department of agriculture, trade  
4           and consumer protection justice or by the district attorney of the county where the  
5           violation occurs.”.

6           **25.** Page 1200, line 8: after that line insert:

7           “SECTION 3816g. 779.41 (1m) of the statutes is amended to read:

8           779.41 (1m) Annually, on January 1, the department of agriculture, trade and  
9           consumer protection justice shall adjust the dollar amounts identified under sub. (1)  
10          (intro.), (a), (b) and (c) 1. to 4. by the annual change in the consumer price index, as  
11          determined under s. 16.004 (8) (e) 1., and publish the adjusted figures.

12          SECTION 3816j. 779.93 (title) of the statutes is amended to read:

13          **779.93 (title) Duties of the department of agriculture, trade and**  
14          **consumer protection justice.**

15          SECTION 3816m. 779.93 (1) of the statutes is amended to read:

16          779.93 (1) The department of agriculture, trade and consumer protection  
17          justice shall investigate violations of this subchapter and attempts to circumvent  
18          this subchapter. The department of agriculture, trade and consumer protection  
19          justice may subpoena persons and records to facilitate its investigations, and may  
20          enforce compliance with such subpoenas as provided in s. 885.12.

21          SECTION 3816p. 779.93 (2) (intro.) of the statutes is amended to read:

22          779.93 (2) (intro.) The department of agriculture, trade and consumer  
23          protection justice may in on behalf of the state or in on behalf of any person who holds  
24          a prepaid maintenance lien:”.

1           **26.** Page 1300, line 12: after that line insert:

2           “(4xv) TRANSFER OF CONSUMER PROTECTION FUNCTIONS”

3           (a) *Assets and liabilities.* All assets and liabilities of the department of  
4           agriculture, trade and consumer protection that are primarily related to programs  
5           or functions transferred to the department of justice under this act shall become the  
6           assets and liabilities of the department of justice. The departments of justice and  
7           agriculture, trade and consumer protection shall jointly determine these assets and  
8           liabilities and shall jointly develop and implement a plan for their orderly transfer.  
9           In the event of any disagreement between the departments, the secretary of  
10          administration shall decide the question. If either department is dissatisfied with  
11          the secretary’s decision, the department may bring the matter to the cochairpersons  
12          of the joint committee on finance for consideration by the committee, and the  
13          committee shall affirm or modify the decision.

14          (b) *Employee transfers.* In the department of agriculture, trade and consumer  
15          protection 15.5 FTE positions that are primarily related to programs or functions  
16          that are transferred to the department of justice under this act, and the incumbents  
17          holding these positions are transferred to the department of justice. The secretary  
18          of administration shall determine which incumbents will be transferred. If either  
19          department is dissatisfied with the secretary’s decision, the department may bring  
20          the matter to the cochairpersons of the joint committee on finance for consideration  
21          by the committee, and the committee shall affirm or modify the decision.

22          (c) *Employee status.* Employees transferred under paragraph (b) have all the  
23          rights and same status under subchapter V of chapter 111 and chapter 230 of the  
24          statutes in the department of justice that they enjoyed in the department of

1 agriculture, trade and consumer protection immediately before the transfer.  
2 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who  
3 has attained permanent status in class is required to serve a probationary period.

4 (d) *Supplies and equipment.* All tangible personal property, including records,  
5 of the department of agriculture, trade and consumer protection that are primarily  
6 related to programs or functions that are transferred to the department of justice  
7 under this act are transferred to the department of justice. The departments of  
8 justice and agriculture, trade and consumer protection shall jointly identify the  
9 tangible personal property, including records, and shall jointly develop and  
10 implement a plan for their orderly transfer. In the event of any disagreement  
11 between the departments, the secretary of administration shall decide the question.  
12 If either department is dissatisfied with the secretary's decision, the department  
13 may bring the matter to the cochairpersons of the joint committee on finance for  
14 consideration by the committee, and the committee shall affirm or modify the  
15 decision.

16 (e) *Pending matters.* Any matter pending with the department of agriculture,  
17 trade and consumer protection that is primarily related to a program or function that  
18 is transferred to the department of justice under this act is transferred to the  
19 department of justice. All materials submitted or actions taken by the department  
20 of agriculture, trade and consumer protection with respect to the pending matter are  
21 considered as having been submitted to or taken by the department of justice.

22 (f) *Contracts.* All contracts entered into by the department of agriculture, trade  
23 and consumer protection or the department of justice that are primarily related to  
24 programs or functions transferred to the department of justice under this act, and  
25 that are in effect on the effective date of this paragraph, remain in effect and those

1 contracts entered into by the department of agriculture, trade and consumer  
2 protection are transferred to the department of justice. The departments of justice  
3 and agriculture, trade and consumer protection shall jointly identify these contracts  
4 and shall jointly develop and implement a plan for their orderly transfer. In the event  
5 of any disagreement between the departments, the secretary of administration shall  
6 decide the question. If either department is dissatisfied with the secretary's decision,  
7 the department may bring the matter to the cochairpersons of the joint committee  
8 on finance for consideration by the committee, and the committee shall affirm or  
9 modify the decision. The department of justice shall carry out the obligations under  
10 these contracts until the obligations are modified or rescinded by the department of  
11 justice to the extent allowed under the contract.

12 (g) *Rules and orders.* All rules promulgated by the department of agriculture,  
13 trade and consumer protection that are in effect on the effective date of this  
14 paragraph and that are primarily related to programs or functions that are  
15 transferred to the department of justice under this act remain in effect until their  
16 specified expiration date or until amended or repealed by the department of justice.  
17 All orders issued by the department of agriculture, trade and consumer protection  
18 that are in effect on the effective date of this paragraph and that are primarily related  
19 to programs or functions transferred to the department of justice under this act  
20 remain in effect until their specified expiration date or until modified or rescinded  
21 by the department of justice.

22 (h) *Decrease in positions.* The authorized FTE positions for the department of  
23 agriculture, trade and consumer protection, funded from the appropriation under  
24 section 20.115 (1) (c) of the statutes, as affected by this act, are decreased by 4.0 GPR  
25 positions.”.

