

2003 DRAFTING REQUEST

Bill

Received: **01/23/2003**

Received By: **btradewe**

Wanted: **Soon**

Identical to LRB:

For: **Stephen Freese (608) 266-7502**

By/Representing: **Kurt**

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

Drafter: **rmarchan**

May Contact:

Addl. Drafters:

Subject: **Environment - miscellaneous**

Extra Copies: **RCT**

Submit via email: **YES**

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

Carbon copy (CC:) to: **robert.marchant@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

Prohibit sale of gasoline containing MTBE

Instructions:

Per LRB-2384, with changes.

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>
/?	btradewe 01/23/2003	jdyer 01/24/2003		_____			State
/1	rmarchan 03/26/2003	wjackson 03/26/2003	pgreensl 01/24/2003	_____	mbarman 01/24/2003		State
	rmarchan 03/26/2003		jfrantze 03/26/2003	_____	mbarman 03/26/2003		

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/2	rmarchan 03/31/2003	rschlue 03/26/2003 wjackson 03/31/2003	rschlue 03/26/2003	_____	sbasford 03/26/2003		Statc
/3			rschlue 03/31/2003	_____	sbasford 03/31/2003	lemery 04/02/2003	

FE Sent For:

at intro

<END>

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Handwritten signature and initials "pb" and "3-31-3" are present at the bottom of the page.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/2 rschluet rschluet _____ sbasford
 03/26/2003 03/26/2003 _____ 03/26/2003

FE Sent For: 1/3 WJ 3/31

<END>

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		1/2 Wlj 3/26	jfrantze 03/26/2003		mbarman 03/26/2003		

Handwritten signature and date 3-26-03

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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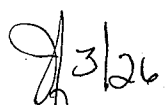
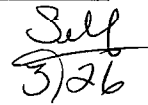
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/1	rmarchan	/1 Wlj 3/26	pgreensl 01/24/2003	_____	mbarman 01/24/2003		

FE Sent For:



 <END>

Tradewell, Becky

From: Simatic, Kurt
Sent: Tuesday, March 25, 2003 4:07 PM
To: Tradewell, Becky
Subject: redraft of LRB 1700/prohibiting use of MTBE

We need a redraft of the MTBE bill.

-section 1 would be the same I suppose. However, it would not be a violation for a person to sell or offer gasoline that has a trace amount of MTBE in it (defined as an amount not to exceed 0.5% by volume of the motor fuel)

-section 2 would be amended to read that the act takes affect on July 1, 2005.

-anyone found in violation by the Department (Commerce) would be subject to fines found in 168.15

If you have any questions, please let me know. Due to a meeting coming up soon, the redraft is a priority if possible.

Thanks.

Kurt Simatic
Legislative Assistant
Speaker Pro Tem Steve Freese

2003 DRAFTING REQUEST

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Received: **01/23/2003**

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By/Representing: **Kurt**

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Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit sale of gasoline containing MTBE

Instructions:

Like 1999 AB 838 (Kurt will get mc effective date)

Drafting History:

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1?	btradewe	1/24 jld	1/29 PS	1/29 PS/grc			

FE Sent For:

<END>

Tradewell, Becky

From: Simatic, Kurt
Sent: Thursday, January 23, 2003 2:53 PM
To: Tradewell, Becky
Subject: effective date for redraft of 1999 AB 838

Steve agreed with your suggestion of the 1st day of the third month after publication for an effective date.

Thanks for your help.

Kurt Simatic
Legislative Assistant
Speaker Pro Tem Steve Freese

2003

1999 ASSEMBLY BILL 838

JLD

March 7, 2000 - Introduced by Representatives HOVEN, OTT, HUTCHISON, HUEBSCH, MONTGOMERY, KESTELL, LADWIG, WALKER, WASSERMAN, BERCEAU, URBAN, ZIEGELBAUER, HAHN, SCHOOFF, GOETSCH, VRAKAS, GUNDERSON, WARD, FREESE and F. LASEE, cosponsored by Senators GROBSCHMIDT, A. LASEE, FARROW, SCHULTZ, ROSENZWEIG and DARLING. Referred to Committee on Assembly Organization.

Regen

1 AN ACT to create 285.38 of the statutes; relating to: prohibiting the sale of
2 gasoline to which methyl tertiary butyl ether has been added.

Analysis by the Legislative Reference Bureau

This bill prohibits the sale of gasoline to which methyl tertiary butyl ether has been added. Methyl tertiary butyl ether is commonly known as MTBE.

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

3 SECTION 1. 285.38 of the statutes is created to read:

4 285.38 Addition of methyl tertiary butyl ether to gasoline. No person
5 may sell or offer for sale gasoline to which methyl tertiary butyl ether has been
6 added.

7 SECTION 2. Effective date.

8 (1) This act takes effect on ^{the first day of the 3rd month beginning} May 1, 2000, or the day after publication, whichever
9 is later.

2003

2003 BILL

D-NOTE

REGEN

1 AN ACT to renumber and amend 168.04; and to create 168.04 (2), 168.04 (3)
 2 and 168.04 (4) of the statutes; relating to: prohibiting methyl tertiary-butyl
 3 ether in automotive gasoline, granting rule-making authority, and providing
 4 a penalty.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Commerce (Commerce) to set minimum specifications for gasoline, reformulated gasoline, and kerosene and authorizes Commerce to set minimum specifications for other types of fuel.

This bill requires Commerce to set, by rule, minimum specifications for automotive gasoline that prohibit automotive gasoline from containing more than 0.5%, by volume, of methyl tertiary-butyl ether (MTBE). This prohibition first applies on July 1, 2006. MTBE is a chemical compound that is added to gasoline, often to boost the gasoline's octane or to meet clean fuel oxygen requirements.

2005

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

5 SECTION 1. 168.04 of the statutes is renumbered 168.04 (1) and amended to
 6 read:

BILL

1 168.04 (1) The department by rule shall prescribe minimum product grade
2 specifications for gasoline, automotive gasoline, reformulated gasoline, as defined in
3 s. 285.37 (1), and kerosene and may prescribe product grade specifications for
4 ~~automotive gasoline, gasoline-alcohol fuel blends, aviation gasoline, fuel oils, and~~
5 ~~diesel fuels. Automotive gasoline specifications shall include lead content. The rules~~
6 ~~shall, to the extent feasible, be in conformity with nationally recognized standards,~~
7 ~~specifications and classifications, such as those published by the American society~~
8 ~~for testing and materials, the society of automotive engineers and the U.S.~~
9 ~~environmental protection agency. The department may not promulgate or enforce~~
10 ~~a rule prohibiting additional information from placement on the dispensing device.~~

11 **SECTION 2.** 168.04 (2) of the statutes is created to read:

12 ²⁰⁰⁵ 168.04 (2) The rule promulgated by the department under sub. (1) to set
13 standards for automotive gasoline shall prohibit automotive gasoline, beginning on
14 July 1, ²⁰⁰⁵ 2006, from containing more than 0.5%, by volume, of methyl tertiary-butyl
15 ether.

16 **SECTION 3.** 168.04 (3) of the statutes is created to read:

17 168.04 (3) Except as otherwise provided in this section, rules promulgated
18 under this section shall be in conformity with nationally recognized standards,
19 specifications, and classifications, such as those published by the American Society
20 for Testing and Materials, the Society of Automotive Engineers, and the U.S.
21 Environmental Protection Agency. The department may not promulgate or enforce
22 a rule prohibiting the placement of additional information on the dispensing device.

23 **SECTION 4.** 168.04 (4) of the statutes is created to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2384/1d11
RJM:wlj:cpv

~~March 25, 2003~~

Representative Freese
Senator Schultz:

The attached draft would prohibit automotive gasoline⁵ from containing any more than trace amounts of MTBE, beginning on July 1, 2004. Like 2003 AB-33 (requiring ethanol in automotive gasoline), the draft uses the Department of Commerce's current regulatory structure for petroleum products. As a result, this draft would not prohibit a manufacturer or refiner from manufacturing or blending gasoline that contains MTBE. However, the draft would prohibit a person in this state from obtaining such gasoline from the manufacturer or refiner and using or selling it.

Please let me know if you have any questions or desire any changes to the draft.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-1700~~1~~ 2
RJM:cmh&wlj:jf

Now

Ren MK

NOTE

2003 BILL

REGEN

1 AN ACT *to renumber and amend* 168.04; and *to create* 168.04 (2), 168.04 (3)
2 and 168.04 (4) of the statutes; **relating to:** prohibiting methyl tertiary-butyl
3 ether in automotive gasoline, granting rule-making authority, and providing
4 a penalty.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Commerce (Commerce) to set minimum specifications for gasoline, reformulated gasoline, and kerosene and authorizes Commerce to set minimum specifications for other types of fuel.

This bill requires Commerce to set, by rule, minimum specifications for automotive gasoline that prohibit automotive gasoline from containing more than 0.5%, by volume, of methyl tertiary-butyl ether (MTBE). This prohibition first applies on July 1, 2005. MTBE is a chemical compound that is added to gasoline, often to boost the gasoline's octane or to meet clean fuel oxygen requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

5 SECTION 1. 168.04 of the statutes is renumbered 168.04 (1) and amended to
6 read:

BILL

1 168.04 (1) The department by rule shall prescribe minimum product grade
2 specifications for gasoline, automotive gasoline, reformulated gasoline, as defined in
3 s. 285.37 (1), and kerosene and may prescribe product grade specifications for
4 ~~automotive gasoline~~, gasoline–alcohol fuel blends, aviation gasoline, fuel oils, and
5 diesel fuels. ~~Automotive gasoline specifications shall include lead content. The rules~~
6 ~~shall, to the extent feasible, be in conformity with nationally recognized standards,~~
7 ~~specifications and classifications, such as those published by the American society~~
8 ~~for testing and materials, the society of automotive engineers and the U.S.~~
9 ~~environmental protection agency. The department may not promulgate or enforce~~
10 ~~a rule prohibiting additional information from placement on the dispensing device.~~

11 **SECTION 2.** 168.04 (2) of the statutes is created to read:

12 168.04 (2) The rule promulgated by the department under sub. (1) to set
13 standards for automotive gasoline shall prohibit automotive gasoline, beginning on
14 July 1, 2005, from containing more than 0.5%, by volume, of methyl tertiary–butyl
15 ether.

16 **SECTION 3.** 168.04 (3) of the statutes is created to read:

17 168.04 (3) Except as otherwise provided in this section, rules promulgated
18 under this section shall be in conformity with nationally recognized standards,
19 specifications, and classifications, such as those published by the American Society
20 for Testing and Materials, the Society of Automotive Engineers, and the U.S.
21 Environmental Protection Agency. The department may not promulgate or enforce
22 a rule prohibiting the placement of additional information on the dispensing device.

23 **SECTION 4.** 168.04 (4) of the statutes is created to read:

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1700/~~Jan~~ *Zdn*
RJM:wlj:jf

March 26, 2003

Representative Freese:

The attached draft would prohibit automotive gasoline from containing any more than trace amounts of MTBE, beginning on July 1, 2005. Like 2003 AB-33 (requiring ethanol in automotive gasoline), the draft uses the Department of Commerce's current regulatory structure for petroleum products. As a result, this draft would not prohibit a manufacturer or refiner from manufacturing or blending gasoline that contains MTBE. However, the draft would prohibit a person in this state from obtaining such gasoline from the manufacturer or refiner and using or selling it.

Please let me know if you have any questions or desire any changes to the draft.

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Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1700/2dn
RJM:wlj:rs

March 26, 2003

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Please let me know if you have any questions or desire any changes to the draft.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Marchant, Robert

From: Simatic, Kurt
Sent: Monday, March 31, 2003 11:18 AM
To: Marchant, Robert
Subject: RE: MTBE draft

that sounds fine with me. Let's do it.

-----Original Message-----

From: Marchant, Robert
Sent: Monday, March 31, 2003 11:13 AM
To: Simatic, Kurt
Subject: RE: MTBE draft

That is debatable. I planned on putting it in a nonstatutory provision at the back of the bill. That way it won't be incorporated into the printed volumes of the statutes, but it will still be available in the event the bill is challenged in court. Is that o.k. with you?

Rob

-----Original Message-----

From: Simatic, Kurt
Sent: Monday, March 31, 2003 11:11 AM
To: Marchant, Robert
Subject: RE: MTBE draft

Rob:

Steve said the language looks good. The only question I have is, where in the bill does the language go, if at all?

-----Original Message-----

From: Marchant, Robert
Sent: Monday, March 31, 2003 11:03 AM
To: Simatic, Kurt
Subject: MTBE draft

Kurt--

Does this language for the legislative intent statement hit the mark?

"The legislature finds that methyl tertiary-butyl ether may contaminate ground water through various means, including leaking fuel storage tanks and pipelines, refueling spills, automobile accidents, and improper consumer disposal of gasoline. As a result of its odor and taste, methyl tertiary-butyl ether can make drinking water supplies undrinkable. The purpose of section 168.04 (2) of the statutes, as created by this act, is to reduce or eliminate the instances of methyl tertiary-butyl ether contaminating ground water."

Robert J. Marchant
Legislative Attorney
State of Wisconsin Legislative Reference Bureau
608-261-4454

20 of 53 DOCUMENTS

ILLINOIS COMPILED STATUTES ANNOTATED
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*** THIS SECTION IS CURRENT THROUGH PUBLIC ACT 92-885, 12/17/2002 ***
*** DECEMBER 2002 ANNOTATION SERVICE ***

CHAPTER 415. ENVIRONMENTAL SAFETY

MTBE ELIMINATION ACT

GO TO THE CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

415 ILCS 122/15 (2003)

§ 415 ILCS 122/15. MTBE Prohibitions

Sec. 15. MTBE Prohibitions. Beginning 3 years after the effective date of this Act, no person shall use, sell, offer for sale, distribute, blend, or manufacture MTBE as a fuel additive in Illinois. It is not a violation of this Act for a person to sell, offer for sale, distribute, or blend a motor fuel in Illinois containing a trace amount of MTBE.

HISTORY: Source: P.A. 92-132, § 15; 92-550, § 5.

NOTES:

EFFECT OF AMENDMENTS.

The 2002 amendment by P.A. 92-550, effective June 24, 2002, added the last sentence.

1 of 3 DOCUMENTS

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*** THIS SECTION IS CURRENT THROUGH CH. 9, 02/27/2003 ***
*** WITH THE EXCEPTION OF CHS. 1-3 ***

AGRICULTURE AND MARKETS LAW

ARTICLE 16. WEIGHTS AND MEASURES

GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION

NY CLS Agr & M § 192-g (2003)

§ 192-g. [Eff Jan 1, 2004] Methyl tertiary butyl ether; prohibited

1. For the purposes of this section, "gasoline" shall mean any fuel sold for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.
2. No person shall import into, or sell, dispense or offer for sale any gasoline which contains methyl tertiary butyl ether.
3. Any person who violates the provisions of this section shall be liable for a civil penalty of not less than five hundred dollars nor more than ten thousand dollars.

HISTORY: Add, L 2000, ch 35, § 2, eff Jan 1, 2004.

NOTES:

FEDERAL ASPECTS:

Motor vehicle fuel reformulation and additives, 42 USCS § 7545

RESEARCH REFERENCES AND PRACTICE AIDS:

55 NY Jur 2d, Environmental Rights and Remedies § 101

61B Am Jur 2d, Pollution Control § § 150, 151, 645, 646

TODAY

DNOTE

2003 BILL

Similarly, the bill requires Commerce ~~to promulgate~~ by rule, to prohibit ^{any} person from offering for sale, distributing, blending, or manufacturing MTBE as an automotive gasoline additive (except ^{that} persons may offer for sale, distribute, ^{blend} or manufacture automotive gasoline containing up to 0.5% by volume, of MTBE). These prohibitions first apply on August 1, 2004.

and providing an exemption from emergency rule procedures.

1 AN ACT to renumber and amend 168.04; and to create 168.04 (2), 168.04 (3)
 2 and 168.04 (4) of the statutes; relating to: prohibiting methyl tertiary-butyl
 3 ether in automotive gasoline, granting rule-making authority, and providing
 4 a penalty.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Commerce (Commerce) to set minimum specifications for gasoline, reformulated gasoline, and kerosene and authorizes Commerce to set minimum specifications for other types of fuel.

This bill requires Commerce to set, by rule, minimum specifications for automotive gasoline that prohibit automotive gasoline from containing more than 0.5%, by volume, of methyl tertiary-butyl ether (MTBE). ~~This prohibition first applies on July 1, 2005.~~ MTBE is a chemical compound that is added to gasoline, often to boost the gasoline's octane or to meet clean fuel oxygen requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

5 SECTION 1. 168.04 of the statutes is renumbered 168.04 (1) and amended to
 6 read:

BILL

automotive
automotive gasoline additives as described
in sub(2)(b)

SECTION 1

1 168.04 (1) The department by rule shall prescribe minimum product grade
2 specifications for gasoline, automotive gasoline, reformulated gasoline, as defined in
3 s. 285.37 (1), and kerosene and may prescribe product grade specifications for
4 ~~automotive gasoline~~, gasoline-alcohol fuel blends, aviation gasoline, fuel oils, and
5 diesel fuels. ~~Automotive gasoline specifications shall include lead content. The rules~~
6 ~~shall, to the extent feasible, be in conformity with nationally recognized standards,~~
7 ~~specifications and classifications, such as those published by the American society~~
8 ~~for testing and materials, the society of automotive engineers and the U.S.~~
9 ~~environmental protection agency. The department may not promulgate or enforce~~
10 ~~a rule prohibiting additional information from placement on the dispensing device.~~

11 SECTION 2. 168.04 (2) of the statutes is created to read:

12 168.04 (2) ^(a) The rule promulgated by the department under sub. (1) to set
13 standards for automotive gasoline shall prohibit automotive gasoline, beginning on
14 ~~July 1, 2003~~, from containing more than 0.5%, by volume, of methyl tertiary-butyl
15 ether. August 1, 2004

16 SECTION 3. 168.04 (3) of the statutes is created to read:

17 168.04 (3) Except as otherwise provided in this section, rules promulgated
18 under this section shall be in conformity with nationally recognized standards,
19 specifications, and classifications, such as those published by the American Society
20 for Testing and Materials, the Society of Automotive Engineers, and the U.S.
21 Environmental Protection Agency. The department may not promulgate or enforce
22 a rule prohibiting the placement of additional information on the dispensing device.

23 ~~SECTION 4. 168.04 (4) of the statutes is created to read:~~

(b) The rule promulgated by the department under sub(1) to set standards for
automotive gasoline additives shall prohibit any person from offering for sale,
distributing, blending, or manufacturing methyl tertiary-butyl ether as an
automotive ~~additive~~ additive in this state, beginning on August 1, 2004

It is not a violation of such a rule for a person to offer
for sale, distribute, blend, or manufacture automotive gasoline containing not more than 0.5% by volume
of methyl tertiary-butyl ether

gasoline

BILL

1 168.04 (4) A person who sells or dispenses automotive gasoline that violates
2 any rule promulgated under sub. (1) shall forfeit not less than \$10 nor more than
3 \$100. Each day on which a violation occurs is a separate violation.

4

(END)

INSERT
3-3

DOS 3-3

SECTION 1. Nonstatutory provisions.

(1) EMERGENCY RULE. Using the procedure under section 227.24[✓] of the statutes, the department of commerce shall promulgate the rule described under section 168.04 (2)[✓] of the statutes, as created by this act, for the period before the permanent rule becomes effective, but not to exceed the period authorized under section 227.24 (1) (c)[✓] and (2)[✓] of the statutes. Notwithstanding section 227.24 (1) (a)[✓], (2) (b)[✓], and (3)[✓] of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection[✓] as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rule promulgated under this subsection[✓].

(2) STATEMENT OF LEGISLATIVE FINDINGS AND PURPOSE. The legislature finds that methyl tertiary-butyl ether may contaminate ground[⌋] water through various means, including leaking fuel storage tanks and pipelines, refueling spills, automobile accidents, and improper consumer disposal of gasoline. As a result of its odor and taste, methyl tertiary-butyl ether can make drinking water supplies undrinkable. The purpose of section 168.04 (2)[✓] of the statutes, as created by this act, is to reduce or eliminate the instances of methyl tertiary-butyl ether contaminating ground[⌋] water.

↑
← one word

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1700/3dn

RJM:1/.....

WLJ

Representative Freese:

Please note that I included a requirement that Commerce promulgate emergency rules. If the bill is enacted near the end of the session (for example, in March 2004), Commerce may not have enough time to promulgate a permanent rule before August 1, 2004.

Also, I have included a statement of legislative intent to make it clear that the legislature is attempting to protect the groundwater from MTBE contamination. This statement is important to avoid an argument that the legislature is improperly attempting to regulate vehicle emissions—an area that is under the exclusive authority of the federal Environmental Protection Agency. See *Oxygenated Fuels Assn., Inc. v. Pataki*, 158 F. Supp. 2d 248 (2001).

Please let me know if you desire any additional changes.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1700/3dn
RJM:wlj:rs

March 31, 2003

Representative Freese:

Please note that I included a requirement that Commerce promulgate emergency rules. If the bill is enacted near the end of the session (for example, in March 2004), Commerce may not have enough time to promulgate a permanent rule before August 1, 2004.

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Please let me know if you desire any additional changes.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Emery, Lynn

From: Simatic, Kurt
Sent: Wednesday, April 02, 2003 2:31 PM
To: LRB.Legal
Subject: Draft review: LRB 03-1700/3 Topic: Prohibit sale of gasoline containing MTBE

It has been requested by <Simatic, Kurt> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-1700/3 Topic: Prohibit sale of gasoline containing MTBE