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2003 - 2004 LEGISLATURE

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LRB-1111/P2

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1P3 RM 1707
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DOA:.....Mukasa - BB0264, Transfer of consumer protection functions to DOJ

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

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AN ACT ... relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Under current law, DATCP administers most consumer protection and trade practice laws. The authority to bring a court action to enforce these laws rests with either DATCP or the district attorney. Where DATCP has the authority to bring a court action, current law specifies whether DATCP has exclusive authority, or whether it has joint authority with DOJ or the district attorney.

This bill transfers all of the administrative authority for certain of these laws, including laws relating to ticket refunds, dating service contracts, mail-order sales, fraudulent representations, methods of competition and trade practices, telecommunications services, cable television subscriber rights, hazardous substances, product safety, products containing or made with ozone-depleting substances, future services plans, landlord and tenant, and time-share ownership, to DOJ. The authority to bring a court action to enforce these laws is transferred either exclusively to DOJ or to DOJ jointly with the district attorney. For certain other of these laws, including unfair trade practices in the dairy industry, discrimination in the purchase of milk, and unfair trade practices in the procurement of vegetable crops, the bill does not affect DATCP's authority under current law to

administer these laws but specifies that the authority to bring a court action rests either exclusively with DOJ or jointly with the district attorney.

The bill does not affect DATCP's authority to both administer and enforce certain other trade practices laws, such as those relating to music royalty collections, the substantiation of energy savings or safety claims, and motor fuel dealerships.

Under current law, if a court imposes a fine or forfeiture for a violation of certain consumer protection laws or the laws regulating weights and measures, the court is required to impose an additional consumer protection assessment. The assessments, up to a certain limit, are credited to an appropriation account for expenditure by DATCP for consumer protection and consumer information and education. Under the bill, these consumer protection assessments, other than those imposed for a violation of the laws regulating weights and measures, are credited to an appropriation account for expenditure by DOJ, rather than DATCP.

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

INSERT ANL
INS
ANL1

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

INS 2-1A ✓
INS 2-1B ✓

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

2 20.115 (1) (hm) *Ozone-depleting refrigerants and products regulation*. The
3 amounts in the schedule for administration of the mobile air conditioner servicing
4 and refrigerant recycling programs and for responsibilities under ss. s. 100.45 and
5 ~~100.50~~ relating to sales and labeling of products containing or made with
6 ozone-depleting substances. All moneys received from fees under s. 100.45 (5) (a)
7 3. and (5m) shall be credited to this appropriation.

8 SECTION 2. 20.115 (8) (jm) of the statutes is repealed.

9 SECTION 3. 20.455 (1) (title) of the statutes is amended to read:

10 20.455 (1) (title) LEGAL AND REGULATORY SERVICES.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

11 SECTION 4. 20.455 (1) (g) of the statutes is created to read:

12 20.455 (1) (g) *Consumer protection, information, and education*. The amounts
13 in the schedule for consumer protection and consumer information and education.

See 8
pl. 59

12

1 All moneys received under s. 100.261 (3) (d) shall be credited to this appropriation
2 account, subject to the limit under s. 100.261 (3) (e).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 SECTION 5. 20.455 (1) (j) of the statutes is created to read:

4 20.455 (1) (j) *Telephone solicitation regulation.* All moneys received from
5 telephone solicitor registration and registration renewal fees paid under the rules
6 promulgated under s. 100.52 (3) (a) for establishing and maintaining the
7 nonsolicitation directory under s. 100.52 (2).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

8 SECTION 6. 93.07 (1) of the statutes is amended to read:

9 93.07 (1) REGULATIONS. To make and enforce such regulations, not inconsistent
10 with law, as it may deem necessary for the exercise and discharge of all of the powers
11 and duties of the department, and to adopt such measures and make such
12 regulations as are necessary and proper for the ~~enforcement by the state of~~
13 department to carry out its duties and powers under chs. 93 to 100, which regulations
14 shall have the force of law.

15 SECTION 7. 93.07 (23) of the statutes is created to read:

16 93.07 (23) CONSUMER PROTECTION ADMINISTRATION. To administer ss. 100.01 to
17 100.14, 100.183 to 100.19, 100.201, 100.202, 100.206, 100.21 to 100.24, 100.265,
18 100.27, 100.285 to 100.30, 100.33 to 100.36, 100.45, 100.47, 100.48, and 100.51.

19 SECTION 8. 93.07 (24) of the statutes is amended to read:

20 93.07 (24) ENFORCEMENT OF LAWS. To enforce or assist in the enforcement of chs.
21 88 and 93 to 99, and those laws entrusted to its administration under ch. 100 and,
22 all other laws entrusted to its administration, and especially:

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

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

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

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

16 **SECTION 9.** 93.18 (3) of the statutes is amended to read:

17 93.18 (3) The department of justice, after acting pursuant to s. 100.37 or 100.41
18 to 100.43 to order the sale or distribution of any substance, article, furnishing, fabric,
19 product or related material ceased, shall give written notice of its finding to the
20 manufacturer, seller or other person responsible for placing the item in the channels
21 of trade in this state. After such notice no person may sell, remove or otherwise
22 dispose of such item except as directed by the department of justice. Any person
23 affected by such notice may demand a prompt hearing to determine the validity of
24 the department's findings of the department of justice. The hearing, if requested,
25 shall be held as expeditiously as possible but not later than 30 days after notice. A

1 request for hearing does not operate to stay enforcement of the order during the
2 pendency of the hearing. The person petitioning for a hearing shall be entitled to the
3 same rights specified under sub. (2).

4 **SECTION 10.** 93.18 (7) of the statutes is created to read:

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

8 **SECTION 11.** 93.20 (1) of the statutes is amended to read:

9 93.20 (1) DEFINITION. In this section, “action” means an action that is
10 commenced in court by, or on behalf of, the department of agriculture, trade and
11 consumer protection to enforce chs. 88, 91 to 100 or 126 or an action that is
12 commenced in court by the department of justice to enforce ch. 100.

13 **SECTION 12.** 93.22 (1) of the statutes is amended to read:

14 93.22 (1) In cases arising under chs. 88 and 93 to ~~100~~ 99 and ss. 100.206, 100.21,
15 100.30, and 100.51, the department may be represented by its attorney.

16 **SECTION 13.** 93.22 (2) of the statutes is amended to read:

17 93.22 (2) The department may, with the approval of the governor, appoint
18 special counsel to prosecute or assist in the prosecution of any case arising under chs.
19 88 and 93 to ~~100~~ 99 and ss. 100.206, 100.21, 100.30, and 100.51. The cost of such
20 special counsel shall be charged to the appropriation for the department.

21 **SECTION 14.** 100.07 (6) of the statutes is amended to read:

22 100.07 (6) ~~Action~~ Upon request of the department of agriculture *rural resources*
23 and ~~consumer protection~~, an action to enjoin violation of this section may be commenced
24 and prosecuted by the department of justice in the name of the state in any court
25 having equity jurisdiction.

1 **SECTION 15.** 100.171 (7) (b) of the statutes, as affected by 2001 Wisconsin Act
2 109, section 263, is amended to read:

3 100.171 (7) (b) Whoever intentionally violates this section is guilty of a Class
4 I felony. A person intentionally violates this section if the violation occurs after the
5 department of justice or a district attorney has notified the person by certified mail
6 that the person is in violation of this section.

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

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

11 **SECTION 17.** 100.173 (4) (intro.) of the statutes is amended to read:

12 100.173 (4) (intro.) The department of justice shall investigate violations of this
13 section. The department of justice, or any district attorney upon informing the
14 department of justice, may, on behalf of the state, do any of the following:

15 **SECTION 18.** 100.173 (4) (a) of the statutes is amended to read:

16 100.173 (4) (a) Bring an action for temporary or permanent injunctive relief in
17 any court of competent jurisdiction for any violation of this section. The relief sought
18 by the department of justice or district attorney may include the payment by a
19 promoter into an escrow account of an amount estimated to be sufficient to pay for
20 ticket refunds. The court may, upon entry of final judgment, award restitution when
21 appropriate to any person suffering loss because of violations of this section if proof
22 of such loss is submitted to the satisfaction of the court.

23 **SECTION 19.** 100.174 (5) (intro.) of the statutes is amended to read:

24 100.174 (5) (intro.) The department of justice or any district attorney may on
25 behalf of the state:

1 **SECTION 20.** 100.174 (6) of the statutes is amended to read:

2 100.174 (6) The department of justice shall investigate violations of and
3 enforce this section.

4 **SECTION 21.** 100.175 (5) (a) (intro.) of the statutes is amended to read:

5 100.175 (5) (a) (intro.) No person may collect or by contract require a buyer to
6 pay more than \$100 for dating services before the buyer receives or has the
7 opportunity to receive those services unless the person selling dating services
8 establishes proof of financial responsibility by maintaining any of the following
9 commitments approved by the department of justice in an amount not less than
10 \$25,000:

11 **SECTION 22.** 100.175 (5) (b) of the statutes is amended to read:

12 100.175 (5) (b) The commitment described in par. (a) shall be established in
13 favor of or made payable to the state, for the benefit of any buyer who does not receive
14 a refund under the contractual provision described in sub. (3). The person selling
15 dating services shall file with the department of justice any agreement, instrument
16 or other document necessary to enforce the commitment against the person selling
17 dating services or any relevant 3rd party, or both.

18 **SECTION 23.** 100.175 (7) (a) (intro.) of the statutes is amended to read:

19 100.175 (7) (a) (intro.) The department of justice or any district attorney may
20 on behalf of the state:

21 **SECTION 24.** 100.175 (7) (b) of the statutes is amended to read:

22 100.175 (7) (b) The department of justice may bring an action in circuit court
23 to recover on a financial commitment maintained under sub. (5) against a person
24 selling dating services or relevant 3rd party, or both, on behalf of any buyer who does
25 not receive a refund due under the contractual provision described in sub. (3).

1 **SECTION 25.** 100.177 (1) (bm) of the statutes is created to read:

2 100.177 (1) (bm) Notwithstanding s. 93.01 (3), “department” means the
3 department of justice.

4 **SECTION 26.** 100.178 (1) (b) of the statutes is amended to read:

5 100.178 (1) (b) Notwithstanding s. 93.01 (3), “department” means the
6 department of ~~health and family services~~ justice.

7 **SECTION 27.** 100.18 (11) (a) of the statutes is amended to read:

8 100.18 (11) (a) The department of ~~agriculture, trade and consumer protection~~
9 justice shall enforce this section. Actions to enjoin violation of this section or any
10 regulations thereunder may be commenced and prosecuted by the department of justice
11 in the name of the state in any court having equity jurisdiction. This remedy
12 is not exclusive. ✓

13 **SECTION 28.** 100.18 (11) (b) 3. of the statutes is amended to read:

14 100.18 (11) (b) 3. No action may be commenced under this section more than
15 3 years after the occurrence of the unlawful act or practice which is the subject of the
16 action. No injunction may be issued under this section which would conflict with
17 general or special orders of the department of justice or any statute, rule or
18 regulation of the United States or of this state.

19 **SECTION 29.** 100.18 (11) (c) 1. of the statutes is amended to read:

20 100.18 (11) (c) 1. Whenever the department of justice has reason to believe that
21 a person is in possession, custody or control of any information or documentary
22 material relevant to the enforcement of this section it may require that person to
23 submit a statement or report, under oath or otherwise, as to the facts and
24 circumstances concerning any activity in the course of trade or commerce; examine
25 under oath that person with respect to any activity in the course of trade or

1 commerce; and execute in writing and cause to be served upon such person a civil
2 investigative demand requiring the person to produce any relevant documentary
3 material for inspection and copying.

4 **SECTION 30.** 100.18 (11) (c) 2. of the statutes is amended to read:

5 100.18 (11) (c) 2. The department of justice, in exercising powers under this
6 subsection, may issue subpoenas, administer oaths and conduct hearings to aid in
7 any investigation.

8 **SECTION 31.** 100.18 (11) (c) 3. of the statutes is amended to read:

9 100.18 (11) (c) 3. Service of any notice by the department of justice requiring
10 a person to file a statement or report, or service of a subpoena upon a person, or
11 service of a civil investigative demand shall be made in compliance with the rules of
12 civil procedure of this state.

13 **SECTION 32.** 100.18 (11) (c) 4. of the statutes is amended to read:

14 100.18 (11) (c) 4. If a person fails to file any statement or report, or fails to
15 comply with any civil investigative demand, or fails to obey any subpoena issued by
16 the department of justice, such person may be coerced as provided in s. 885.12, except
17 that no person shall be required to furnish any testimony or evidence under this
18 subsection which might tend to incriminate the person.

19 **SECTION 33.** 100.18 (11) (d) of the statutes is amended to read:

20 100.18 (11) (d) ~~The department or the department of justice, after consulting~~
21 ~~with the department,~~ or any district attorney, upon informing the department of
22 justice, may commence an action in circuit court in the name of the state to restrain
23 by temporary or permanent injunction any violation of this section. The court may
24 in its discretion, prior to entry of final judgment, make such orders or judgments as
25 may be necessary to restore to any person any pecuniary loss suffered because of the

1 acts or practices involved in the action, provided proof thereof is submitted to the
2 satisfaction of the court. ~~The department and the department of justice may~~
3 ~~subpoena persons and require the production of books and other documents, and the~~
4 ~~department of justice may request the department to exercise its authority under~~
5 ~~par. (c) to aid in the investigation of alleged violations of this section.~~

6 **SECTION 34.** 100.18 (11) (e) of the statutes is amended to read:

7 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
8 section, ~~the department or~~ the department of justice may accept a written assurance
9 of discontinuance of any act or practice alleged to be a violation of this section from
10 the person who has engaged in such act or practice. The acceptance of such assurance
11 by ~~either the department or~~ the department of justice shall be deemed acceptance by
12 ~~the other state officials enumerated in par. (d)~~ any district attorney if the terms of
13 the assurance so provide. An assurance entered into pursuant to this section shall
14 not be considered evidence of a violation of this section, provided that violation of
15 such an assurance shall be treated as a violation of this section, and shall be
16 subjected to all of the penalties and remedies provided therefor.

17 **SECTION 35.** 100.182 (5) (a) of the statutes is amended to read:

18 100.182 (5) (a) Any district attorney, after informing the department of justice,
19 or the department of justice may seek a temporary or permanent injunction in circuit
20 court to restrain any violation of this section. Prior to entering a final judgment the
21 court may award damages to any person suffering monetary loss because of a
22 violation. The department of justice may subpoena any person or require the
23 production of any document to aid in investigating alleged violations of this section.

24 **SECTION 36.** 100.182 (5) (b) of the statutes is amended to read:

1 100.182 (5) (b) In lieu of instituting or continuing an action under this
2 subsection, the department of justice may accept a written assurance from a violator
3 of this section that the violation has ceased. If the terms of the assurance so provide,
4 its acceptance by the department of justice prevents all district attorneys from
5 prosecuting the violation. An assurance is not evidence of a violation of this section
6 but violation of an assurance is subject to the penalties and remedies of violating this
7 section.

8 **SECTION 37.** 100.20 (2) (a) of the statutes is amended to read:

9 100.20 (2) (a) The department of justice, after public hearing, may issue
10 general orders forbidding methods of competition in business or trade practices in
11 business which are determined by the department of justice to be unfair. The
12 department of justice, after public hearing, may issue general orders prescribing
13 methods of competition in business or trade practices in business which are
14 determined by the department of justice to be fair.

15 **SECTION 38.** 100.20 (2) (b) of the statutes is amended to read:

16 100.20 (2) (b) Notwithstanding par. (a), the department of justice may not issue
17 any order or promulgate any rule that regulates the provision of water or sewer
18 service by a manufactured home park operator, as defined in s. 101.91 (8), or
19 manufactured home park contractor, as defined in s. 101.91 (6m), or enforce any rule
20 to the extent that the rule regulates the provision of such water or sewer service.

21 **SECTION 39.** 100.20 (3) of the statutes is amended to read:

22 100.20 (3) The department of justice, after public hearing, may issue a special
23 order against any person, enjoining such person from employing any method of
24 competition in business or trade practice in business which is determined by the
25 department of justice to be unfair or from providing service in violation of sub. (1t).

1 The department of justice, after public hearing, may issue a special order against any
2 person, requiring such person to employ the method of competition in business or
3 trade practice in business which is determined by the department of justice to be fair.

4 **SECTION 40.** 100.20 (4) of the statutes is amended to read:

5 100.20 (4) ~~The if the department of justice may file a written complaint with~~
6 ~~the department alleging that the has reason to believe that a person named is~~
7 ~~employing unfair methods of competition in business or unfair trade practices in~~
8 ~~business or both. Whenever such a complaint is filed,~~ it shall be the duty of the
9 department of justice to proceed, after proper notice and in accordance with its rules,
10 to the hearing and adjudication of the ~~matters alleged, and a representative of the~~
11 ~~department of justice designated by the attorney general may appear before the~~
12 ~~department in such proceedings. The department of justice shall be entitled to~~
13 ~~judicial review of the decisions and orders of the department under ch. 227 matter.~~

14 **SECTION 41.** 100.20 (6) of the statutes is amended to read:

15 100.20 (6) The department of justice may commence an action in circuit court
16 in the name of the state to restrain by temporary or permanent injunction the
17 violation of any order issued under this section. The court may in its discretion, prior
18 to entry of final judgment, make such orders or judgments as may be necessary to
19 restore to any person any pecuniary loss suffered because of the acts or practices
20 involved in the action, provided proof thereof is submitted to the satisfaction of the
21 court. The department of justice ~~may use its authority in ss. 93.14 and 93.15 to~~
22 investigate violations of any order issued under this section.

23 **SECTION 42.** 100.201 (6) (d) of the statutes is amended to read:

24 100.201 (6) (d) The failure to pay fees under this subsection within the time
25 provided under par. (c) is a violation of this section. The department of justice may

1 also commence an action to recover the amount of any overdue fees plus interest at
2 the rate of 2% per month for each month that the fees are delinquent.

3 SECTION 43. 100.201 (8m) (intro.) of the statutes is amended to read:

4 100.201 (8m) JURISDICTION. (intro.) This section shall apply to transactions,
5 acts or omissions which take place in whole or in part outside this state. In any action
6 or administrative proceeding the department of justice has jurisdiction of the person
7 served under s. 801.11 when any act or omission outside this state by the defendant
8 or respondent results in local injury or may have the effect of injuring competition
9 or a competitor in this state or unfairly diverts trade or business from a competitor,
10 if at the time:

11 SECTION 44. 100.201 (9) (b) of the statutes is amended to read:

12 100.201 (9) (b) The department of agriculture ~~and consumer protection~~, *rural resources*
13 after public hearing held under s. 93.18, may issue a special order against any person
14 requiring such person to cease and desist from acts, practices or omissions
15 determined by the department of agriculture ~~and consumer protection~~ *rural resources* to
16 violate this section. Such orders shall be subject to judicial review under ch. 227.
17 Any violation of a special order issued hereunder shall be punishable as a contempt
18 under ch. 785 in the manner provided for disobedience of a lawful order of a court,
19 upon the filing of an affidavit by the department of justice of the commission of such
20 violation in any court of record in the county where the violation occurred.

21 SECTION 45. 100.201 (9) (c) of the statutes is amended to read:

22 100.201 (9) (c) The department of justice, in addition to or in lieu of any other
23 remedies herein provided, may apply to a circuit court for a temporary or permanent
24 injunction to prevent, restrain or enjoin any person from violating this section or any
25 special order of the department of agriculture ~~and consumer protection~~ *rural resources* issued

1 hereunder under this section, without being compelled to allege or prove that an
2 adequate remedy at law does not exist.

3 SECTION 46. 100.205 (7) of the statutes is amended to read:

4 100.205 (7) The department of justice, or any district attorney on informing the
5 department of justice, may commence an action in circuit court in the name of the
6 state to restrain by temporary or permanent injunction any violation of this section.
7 The court may, before entry of final judgment and after satisfactory proof, make
8 orders or judgments necessary to restore to any person any pecuniary loss suffered
9 because of a violation of this section. The department of justice may conduct
10 hearings, administer oaths, issue subpoenas and take testimony to aid in its
11 investigation of violations of this section.

12 SECTION 47. 100.205 (8) of the statutes is amended to read:

13 100.205 (8) The department of justice or any district attorney may commence
14 an action in the name of the state to recover a forfeiture to the state of not more than
15 \$10,000 for each violation of this section.

16 SECTION 48. 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.) and
17 amended to read:

18 100.207 (1) ~~DEFINITION~~ DEFINITIONS. (intro.) In this section,
19 telecommunications :

20 (b) “Telecommunications service” has the meaning given in s. 196.01 (9m).

21 SECTION 49. 100.207 (1) (a) of the statutes is created to read:

22 100.207 (1) (a) Notwithstanding s. 93.01 (3), “department” means the
23 department of justice.

24 SECTION 50. 100.207 (6) (b) 1. of the statutes is amended to read:

1 100.207 (6) (b) 1. The department of justice, after consulting with the
2 department of agriculture, trade and consumer protection, or any district attorney
3 upon informing the department of agriculture, trade and consumer protection, may
4 commence an action in circuit court in the name of the state to restrain by temporary
5 or permanent injunction any violation of this section. Injunctive relief may include
6 an order directing telecommunications providers, as defined in s. 196.01 (8p), to
7 discontinue telecommunications service provided to a person violating this section
8 or ch. 196. Before entry of final judgment, the court may make such orders or
9 judgments as may be necessary to restore to any person any pecuniary loss suffered
10 because of the acts or practices involved in the action if proof of these acts or practices
11 is submitted to the satisfaction of the court.

12 SECTION 51. 100.207 (6) (b) 2. of the statutes is amended to read:

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

19 SECTION 52. 100.207 (6) (c) of the statutes is amended to read:

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

25 SECTION 53. 100.207 (6) (em) 1. of the statutes is amended to read:

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

6 **SECTION 54.** 100.207 (6) (em) 2. of the statutes is amended to read:

7 100.207 (6) (em) 2. The department shall submit the recommendations under
8 subd. 1., if any, to the legislature as part of the report required under s. 227.19 (2)
9 ~~and to the board of agriculture, trade and consumer protection.~~

10 **SECTION 55.** 100.208 (2) (intro.) of the statutes is amended to read:

11 100.208 (2) (intro.) The department of justice shall notify the public service
12 commission if any of the following conditions exists:

13 **SECTION 56.** 100.208 (2) (b) of the statutes is amended to read:

14 100.208 (2) (b) The department of justice has issued an order under s. 100.20
15 (3) prohibiting a telecommunications provider from engaging in an unfair trade
16 practice or method of competition.

17 **SECTION 57.** 100.209 (3) of the statutes is amended to read:

18 100.209 (3) RULES AND LOCAL ORDINANCES ALLOWED. This section does not
19 prohibit the department of justice from promulgating a rule or from issuing an order
20 consistent with its authority under this chapter that gives a subscriber greater rights
21 than the rights under sub. (2) or prohibit a city, village or town from enacting an
22 ordinance that gives a subscriber greater rights than the rights under sub. (2).

23 **SECTION 58.** 100.209 (4) (b) of the statutes is amended to read:

24 100.209 (4) (b) The department of justice and the district attorneys of this state
25 have concurrent authority to institute civil proceedings under this section.

1 **SECTION 59.** 100.2095 (6) (b) of the statutes is amended to read:

2 100.2095 (6) (b) The department of justice may commence an action in the
3 name of the state to restrain by temporary or permanent injunction a violation of sub.
4 (3), (4) or (5). Before entry of final judgment, the court may make any necessary
5 orders to restore to any person any pecuniary loss suffered by the person because of
6 the violation.

7 **SECTION 60.** 100.2095 (6) (c) of the statutes is amended to read:

8 100.2095 (6) (c) The department of justice or any district attorney may
9 commence an action in the name of the state to recover a forfeiture to the state of not
10 less than \$100 nor more than \$10,000 for each violation of sub. (3), (4) or (5).

11 **SECTION 61.** 100.21 (2) (a) of the statutes is amended to read:

12 100.21 (2) (a) No person may make an energy savings or safety claim without
13 a reasonable and currently accepted scientific basis for the claim when the claim is
14 made. Making an energy savings or safety claim without a reasonable and currently
15 accepted scientific basis is also an unfair method of competition and trade practice
16 prohibited under s. 100.20.

17 **SECTION 62.** 100.21 (4) (a) (intro.) of the statutes is amended to read:

18 100.21 (4) (a) (intro.) The department may, after public hearing, issue general
19 or special orders ~~under s. 100.20~~:

20 **SECTION 63.** 100.22 (4) (b) of the statutes is amended to read:

21 100.22 (4) (b) The department of justice may, without alleging or proving that
22 no other adequate remedy at law exists, bring an action on behalf of the department
23 of agriculture ~~trade and consumer protection~~ ^{rural resources} to enjoin violations of this section or
24 a special order issued under this section in the circuit court for the county where the
25 alleged violation occurred.

1 SECTION 64. 100.235 (11) (a) of the statutes is amended to read:

2 100.235 (11) (a) *Forfeiture.* Any person who violates this section or any rule
3 promulgated or order issued under this section may be required to forfeit not less
4 than \$100 nor more than \$10,000. ~~Notwithstanding s. 165.25 (1), the department~~
5 ~~may commence an action to recover a forfeiture under this paragraph.~~

6 SECTION 65. 100.26 (6) of the statutes is amended to read:

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

17 SECTION 66. 100.261 (3) (b) of the statutes is amended to read:

18 100.261 (3) (b) The state treasurer shall deposit the assessment amounts
19 imposed for a violation of ch. 98, a rule promulgated under ch. 98, or an ordinance
20 enacted under ch. 98 in the general fund and shall credit them to the appropriation
21 account under s. 20.115 (1) (jb), subject to the limit under ^{par. (c)} ~~subd. 2.~~

22 SECTION 67. 100.261 (3) (d) of the statutes is created to read:

23 100.261 (3) (d) The state treasurer shall deposit the consumer protection
24 assessment amounts imposed for a violation of this chapter ^{or ch. 133} a rule promulgated
25 under this chapter ^{or ch. 133} or an ordinance enacted under this chapter in the general fund

INSERT
18-17

1 and shall credit them to the appropriation account under s. 20.455 (1) (g), subject to
2 the limit under par. (e).

3 **SECTION 68.** 100.261 (3) (e) of the statutes is created to read:

4 100.261 (3) (e) The amount credited to the appropriation account under s.
5 20.455 (1) (g) may not exceed ~~\$185,000~~ ^{\$375,000} in each fiscal year.

6 **SECTION 69.** 100.263 of the statutes is amended to read:

7 **100.263 Recovery.** ^{PLAIN} In addition to other remedies available under this chapter,
8 the court may award ~~the department~~ ^{State} the reasonable and necessary costs of
9 investigation and an amount reasonably necessary to remedy the harmful effects of
10 the violation and ~~the court may award the department of justice~~ the reasonable and
11 necessary expenses of prosecution, including attorney fees, from any person who
12 violates this chapter. ~~The department and the department of justice~~ amounts
13 awarded under this subsection shall ~~deposit~~ be deposited in the state treasury for
14 deposit in the general fund ~~all moneys that the court awards to the department, the~~
15 ~~department of justice or the state under this section.~~ Ten percent of the money
16 deposited in the general fund that was awarded under this section for the costs of
17 investigation and the expenses of prosecution, including attorney fees, shall be
18 credited to the appropriation account under s. 20.455 (1) (gh).

19 **SECTION 70.** 100.28 (4) (b) of the statutes is amended to read:

20 100.28 (4) (b) In lieu of or in addition to forfeitures under par. (a), the
21 department of justice may seek an injunction restraining any person from violating
22 this section.

23 **SECTION 71.** 100.28 (4) (c) of the statutes is amended to read:

1 100.28 (4) (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 **SECTION 72.** 100.31 (4) of the statutes is amended to read:

5 100.31 (4) PENALTIES. For any violation of this section, the department of
6 justice or a district attorney may commence an action on behalf of the state to recover
7 a forfeiture of not less than \$100 nor more than \$10,000 for each offense. Each
8 delivery of a drug sold to a purchaser at a price in violation of this section and each
9 separate day in violation of an injunction issued under this section is a separate
10 offense.

11 **SECTION 73.** 100.31 (5) of the statutes is amended to read:

12 100.31 (5) SPECIAL REMEDIES. The department of justice or a district attorney
13 may bring an action to enjoin a violation of this section without being compelled to
14 allege or prove that an adequate remedy at law does not exist. An action under this
15 subsection may be commenced and prosecuted by the department of justice or a
16 district attorney, in the name of the state, in a circuit court in the county where the
17 offense occurred or in Dane County, notwithstanding s. 801.50.

18 **SECTION 74.** 100.37 (1) (am) of the statutes is created to read:

19 100.37 (1) (am) Notwithstanding s. 93.01 (3), “department” means the
20 department of justice.

21 **SECTION 75.** 100.38 (5) of the statutes is amended to read:

22 100.38 (5) INSPECTION. The department of justice shall enforce this section by
23 inspection, chemical analyses or any other appropriate method and the department
24 of justice may promulgate such rules as are necessary to effectively enforce this
25 section.

1 **SECTION 76.** 100.38 (6) of the statutes is amended to read:

2 100.38 (6) **ENFORCEMENT.** It is unlawful to sell any antifreeze which is
3 adulterated or misbranded. In addition to the penalties provided under sub. (7), the
4 department of justice may bring an action to enjoin violations of this section.

5 **SECTION 77.** 100.41 (1) (bn) of the statutes is created to read:

6 100.41 (1) (bn) Notwithstanding s. 93.01 (3), “department” means the
7 department of justice.

8 **SECTION 78.** 100.42 (1) (cm) of the statutes is created to read:

9 100.42 (1) (cm) Notwithstanding s. 93.01 (3), “department” means the
10 department of justice.

11 **SECTION 79.** 100.43 (1) (am) of the statutes is created to read:

12 100.43 (1) (am) Notwithstanding s. 93.01 (3), “department” means the
13 department of justice.

14 **SECTION 80.** 100.44 (5) of the statutes is amended to read:

15 100.44 (5) **ENFORCEMENT.** For any violation of sub. (3), the department of justice
16 may, on behalf of the state, bring an action in any court of competent jurisdiction for
17 the recovery of forfeitures authorized under sub. (4), for temporary or permanent
18 injunctive relief and for any other appropriate relief. The court may make any order
19 or judgment that is necessary to restore to any person any pecuniary loss suffered
20 because of a violation of sub. (3) if proof of the loss is shown to the satisfaction of the
21 court.

22 **SECTION 81.** 100.46 (1) of the statutes is amended to read:

23 100.46 (1) **ENERGY CONSERVATION STANDARDS.** The department of justice may by
24 rule adopt energy conservation standards for products that have been established in
25 or promulgated under 42 USC 6291 to 6309.

1 **SECTION 82.** 100.46 (2) of the statutes is amended to read:

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

7 **SECTION 83.** 100.50 (6) (b) of the statutes is amended to read:

8 100.50 (6) (b) In lieu of or in addition to the remedy under par. (a), the
9 department of justice may seek an injunction restraining any person from violating
10 this section.

11 **SECTION 84.** 100.50 (6) (c) of the statutes is amended to read:

12 100.50 (6) (c) The department of justice, or any district attorney upon the
13 request of the department of justice, may commence an action in the name of the
14 state under par. (a) or (b).

15 **SECTION 85.** 100.52 (1) (bn) of the statutes is created to read:

16 100.52 (1) (bn) Notwithstanding s. 93.01 (3), “department” means the
17 department of justice.

18 **SECTION 86.** 101.175 (3) (intro.) of the statutes is amended to read:

19 101.175 (3) (intro.) The department, in consultation with the department of
20 ~~agriculture, trade and consumer protection~~ justice, shall establish by rule quality
21 standards for local energy resource systems which do not impede development of
22 innovative systems but which do:

23 **SECTION 87.** 134.71 (12) of the statutes is amended to read:

24 134.71 (12) APPLICATIONS AND FORMS. The department of agriculture, trade and
25 consumer protection, in consultation with the department of justice, shall develop

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p. 24.*

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

6 SECTION 88. 136.03 (title) of the statutes is amended to read:

7 **136.03 (title) Duties of the department of agriculture, trade and**
8 **consumer protection justice.**

9 SECTION 89. 136.03 (1) (intro.) of the statutes is amended to read:

10 136.03 (1) (intro.) The department of ~~agriculture, trade and consumer~~
11 ~~protection justice~~ shall investigate violations of this chapter and of rules and orders
12 issued under s. 136.04. The department of justice may subpoena persons and records
13 to facilitate its investigations, and may enforce compliance with such subpoenas as
14 provided in s. 885.12. The department of justice may ~~in~~ on behalf of the state:

15 SECTION 90. 136.04 of the statutes is amended to read:

16 **136.04 Powers of the department of agriculture, trade and consumer**
17 **protection justice.** (1) The department of ~~agriculture, trade and consumer~~
18 ~~protection justice~~ may adopt such rules as may be required to carry out the purposes
19 of this chapter.

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

24 SECTION 91. 165.065 (2) of the statutes is amended to read:

1 165.065 (2) The assistant attorney general in charge of antitrust investigations
2 and prosecutions is to cooperate actively with the antitrust division of the U.S.
3 department of justice in everything that concerns monopolistic practices in
4 Wisconsin, and also to cooperate actively with the department of agriculture, trade
5 and consumer protection in the work which this agency is carrying on ~~under s. 100.20~~
6 ~~of the marketing law~~ with regard to monopolistic practices in the field of agriculture
7 and with the federal trade commission on matters arising in or affecting Wisconsin
8 which pertain to its jurisdiction.

9 **SECTION 92.** 165.25 (4) (ar) of the statutes is amended to read:

10 165.25 (4) (ar) The department of justice shall ~~furnish all legal services~~
11 ~~required by~~ represent the department of agriculture, trade and consumer protection
12 in any court action relating to the enforcement of ~~ss. 100.171, 100.173, 100.174,~~
13 ~~100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21,~~
14 ~~100.28, 100.37, 100.42, 100.50 and 100.51 and chs. 126, 136, 344, 704, 707, and 779~~
15 ch. 126 and ss. 100.01 to 100.025, 100.05, 100.07, 100.14, 100.183 to 100.19, 100.201,
16 100.22, 100.235, 100.27, 100.285 to 100.297, 100.33 to 100.36, 100.45, 100.47, and
17 100.48, together with any other services as are necessarily connected to the legal
18 services.

19 **SECTION 93.** 165.252 of the statutes is created to read:

20 **165.252 Consumer protection matters.** The department of justice shall
21 administer ss. 100.15 to 100.182, 100.20, 100.205, 100.207 to 100.2095, 100.28,
22 100.31, 100.37 to 100.44, 100.46, 100.50, and 100.52 and may promulgate rules to aid
23 in the administration and enforcement of these sections. The department of justice
24 may appear for the state in any court action relating to these sections.

25 **SECTION 94.** 344.576 (3) (a) 5. of the statutes is amended to read:

1 344.576 (3) (a) 5. The address and telephone number of the department of
2 ~~agriculture, trade and consumer protection~~ justice.

3 **SECTION 95.** 344.576 (3) (c) of the statutes is amended to read:

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

9 **SECTION 96.** 344.579 (2) (intro.) of the statutes is amended to read:

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

14 **SECTION 97.** 704.90 (9) of the statutes is amended to read:

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

18 **SECTION 98.** 704.90 (11) (title) of the statutes is amended to read:

19 704.90 (11) (title) **DUTIES OF THE DEPARTMENT OF AGRICULTURE, TRADE AND**
20 **CONSUMER-PROTECTION** JUSTICE.

21 **SECTION 99.** 704.90 (11) (a) of the statutes is amended to read:

22 704.90 (11) (a) Except as provided in par. (c), the department of ~~agriculture,~~
23 ~~trade and consumer protection~~ justice shall investigate alleged violations of this
24 section and rules promulgated under sub. (9). To facilitate its investigations, the

1 department may subpoena persons and records and may enforce compliance with the
2 subpoenas as provided in s. 885.12.

3 **SECTION 100.** 707.49 (4) of the statutes is amended to read:

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

13 **SECTION 101.** 707.57 (2) of the statutes is amended to read:

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

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

1 **SECTION 102.** 707.57 (3) of the statutes is amended to read:

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

7 **SECTION 103.** 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 104.** 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 105.** 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 106.** 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 **SECTION 9104. Nonstatutory provisions; agriculture, trade and**
2 **consumer protection.**

3 (1) TRANSFER OF CONSUMER PROTECTION FUNCTIONS

4 (a) *Assets and liabilities.* All assets and liabilities of the department of
5 agriculture, trade and consumer protection that are primarily related to programs
6 or functions transferred to the department of justice under this act shall become the
7 assets and liabilities of the department of justice. The departments of justice and
8 agriculture, trade and consumer protection shall jointly determine these assets and
9 liabilities and shall jointly develop and implement a plan for their orderly transfer.
10 In the event of any disagreement between the departments, the secretary of
11 administration shall resolve the disagreement.

12 (b) *Employee transfers.* In the department of agriculture, trade and consumer
13 protection the positions that are primarily related to programs or functions that are
14 transferred to the department of justice under this act, and the incumbents holding
15 these positions are transferred to the department of justice. The secretary of
16 administration shall determine which incumbents will be transferred.

17 (c) *Employee status.* Employees transferred under paragraph (b) have all the
18 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
19 statutes in the department of justice that they enjoyed in the department of
20 agriculture, trade and consumer protection immediately before the transfer.
21 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
22 has attained permanent status in class is required to serve a probationary period.

23 (d) *Supplies and equipment.* All tangible personal property, including records,
24 of the department of agriculture, trade and consumer protection that are primarily
25 related to programs or functions that are transferred to the department of justice

1 under this act are transferred to the department of justice. The departments of
2 justice and agriculture, trade and consumer protection shall jointly identify the
3 tangible personal property, including records, and shall jointly develop and
4 implement a plan for their orderly transfer. In the event of any disagreement
5 between the departments, the secretary of administration shall resolve the
6 disagreement.

7 (e) *Pending matters.* Any matter pending with the department of agriculture,
8 trade and consumer protection that is primarily related to a program or function that
9 is transferred to the department of justice under this act is transferred to the
10 department of justice. All materials submitted to or actions taken by the department
11 of agriculture, trade and consumer protection with respect to the pending matter are
12 considered as having been submitted to or taken by the department of justice.

13 (f) *Contracts.* All contracts entered into by the department of agriculture, trade
14 and consumer protection or the department of justice that are primarily related to
15 programs or functions transferred to the department of justice under this act, and
16 that are in effect on the effective date of this paragraph, remain in effect and those
17 contracts entered into by the department of agriculture, trade and consumer
18 protection are transferred to the department of justice. The departments of justice
19 and agriculture, trade and consumer protection shall jointly identify these contracts
20 and shall jointly develop and implement a plan for their orderly transfer. In the event
21 of any disagreement between the departments, the secretary of administration shall
22 resolve the disagreement. The department of justice shall carry out the obligations
23 under these contracts until the obligations are modified or rescinded by the
24 department of justice to the extent allowed under the contract.

1 (g) *Rules and orders.* All rules promulgated by the department of agriculture,
2 trade and consumer protection that are in effect on the effective date of this
3 paragraph and that are primarily related to programs or functions that are
4 transferred to the department of justice under this act remain in effect until their
5 specified expiration date or until amended or repealed by the department of justice.
6 All orders issued by the department of agriculture, trade and consumer protection
7 that are in effect on the effective date of this paragraph and that are primarily related
8 to programs or functions transferred to the department of justice under this act
9 remain in effect until their specified expiration date or until modified or rescinded
10 by the department of justice. ✓

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(END)

insert anl: ✓
Not This bill also requires the imposition of the consumer protection assessment for fines or forfeitures resulting from the violation of statutes prohibiting the creation of monopolies and the unfair and discriminatory business practices that hamper competition.

1 insert 18-16:

2 SECTION 1. 100.261 (1) of the statutes is amended to read: *plain*

3 100.261 (1) If a court imposes a fine or forfeiture for a violation of this chapter, *or*

4 ch. 98 *or* 133, a rule promulgated under this chapter *or* ch. 98 *or* 133, or an ordinance

5 enacted under this chapter *or* ch. 98 *or* 133, the court shall also impose a consumer

6 protection assessment in an amount equal to 25% of the fine or forfeiture imposed.

7 If multiple violations are involved, the court shall base the consumer protection

8 assessment upon the the total of the fine or forfeiture amounts for all violations. If

9 a fine or forfeiture is suspended in whole or in part, the court shall reduce the

10 assessment in proportion to the suspension.

11 History: 1999 a. 9; 2001 a. 16.

11

12 insert 18-24 (after "chapter"):

13 or chapter 133

14

15 insert 18-25 (after each "chapter"):

16 or chapter 133

17

18 insert 19-5:

19 change "\$185,000" to "\$375,000"

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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seven
Under current law, DATCP is under the supervision and direction the *two* Board of agriculture, trade and consumer protection. The board currently consists of *nine* members, *two* of whom have an agricultural background and *nine* of whom are consumer representatives. This bill changes the composition of the board so that all *nine* members have agricultural backgrounds.

INS ANL1

The bill also changes the name of DATCP to the Department of agriculture and rural resources.

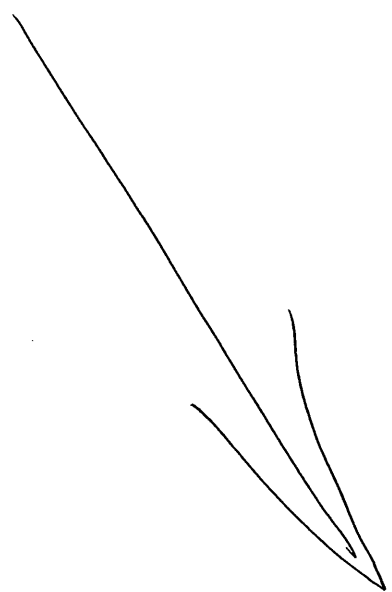
SECTION 1. 15.13 of the statutes is amended to read:

15.13 Department of agriculture, trade and consumer protection; creation. There is created a department of agriculture, trade and consumer protection under the direction and supervision of the board of agriculture, trade and consumer protection. The board shall consist of ~~7~~ *9* members with an agricultural background and ~~2~~ members who are consumer representatives, *explain* appointed for staggered 6-year terms. Appointments to the board shall be made without regard to party affiliation, residence or interest in any special organized group.

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History: 1977 c. 29; 1995 a. 27; 1997 a. 27.

****NOTE: Transitional language concerning the 2 consumer protection members may well need to be drafted.



Section #. 15.137 (1) (a) (intro.) of the statutes is amended to read:

15.137 (1) (a) (intro.) There is created in the department of agriculture, ~~trade and consumer~~ ^{plain}
~~protection~~ ^{and rural resources} an agricultural producer security council consisting of the following members appointed
by the secretary of agriculture ^{and rural resources} for 3-year terms:

History: 1977 c. 29 s. 1650m (2), (4); 1977 c. 87, 216, 272, 418; 1979 c. 129; 1981 c. 57, 237; 1985 a. 184; 1987 a.
281; 1991 a. 269, 315; 1993 a. 417; 1997 a. 27; 2001 a. 16.

→ plain

2003

Nonstat File Sequence: **AAA**

LRB _____ / _____

NONSTAT SESSLAW

INSERT 30-10 (beginning)

1. In the component bar:
 - For the action phrase, execute: create → action: → *NS: → nonstat
 - For the budget action phrase, execute: create → action: → *NS: → 91XX
 - For a subsection, execute: create → text: → *NS: → sub
 - For a paragraph, execute: create → text: → *NS: → par
 - For a subdivision, execute: create → text: → *NS: → subd
 - For a subdivision paragraph, execute: create → text: → *NS: → subpar
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9100 department code.

SECTION # **{9104}**. Nonstatutory provisions; ...
 Agriculture, trade and consumer protection.....
 (#1) ()

2003

Nonstat File Sequence: **BBB**

LRB _____ / _____

TERMINOLOGY CHANGE

INSERT 30-10 cont.

Not used in the budget or compiled bills.

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → termchg

For the text, execute: create → text: → *NS: → termchg

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Terminology changes.

LPS: change this component name to "nonstat"

→ LAW (#) ^(CS) NAME CHANGE.....

Wherever "agriculture, trade and consumer protection".....

..... " appears in the following sections

of the statutes, "agriculture and natural resources".....

.....

..... " is substituted:

as affected by this act,

INSERT

(#2) ()

Wherever "

..... " appears in the following sections

of the statutes, "

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INS 30-10
Cont

(intro.)
15.13 (title), 15.05 (1) (d), 15.07 (5) (d), 15.105 (12) (a) 1. ~~15.105~~ (16) (b) 1.,
15.107 (16) (b) 2., 15.13, 15.135 (4) (am) ~~15.135~~ (b) 1., 15.137 (1) (a) ~~15.137~~
~~15.137~~ (b) ~~15.137~~ (5) ~~15.137~~ (a), ~~15.137~~ (b) 1., 15.155 (4) (a) 1., 15.225 (2)
(c), 15.347 (13) (b) 3. ~~15.347~~ (18) (b) 3., 15.405 (5g), 15.445 (2) (e) ~~15.445~~ (4)
(a) 6., 15.915 (1) (b) 1. ~~15.915~~ (2) (a), 16.023 (1) (g), 16.045 (3), 16.967 (6),
20.115 ~~20.115~~ (intro.), 20.866 (2) (we) ~~20.866~~ (wf), 20.923 (4) (f) 2.,
23.235 (3m), 25.463, 26.30 (2) ~~26.30~~ (5), 26.36, 27.019 (3) ~~27.019~~ (12), 29.424
(2) (b), 29.705 (4) (b), 29.875 (2), 30.12 (4m) (a) ~~30.12~~ (b), 30.20 (1) (d),
30.46 (1) (a) ~~30.46~~ (2), 31.02 (7m), 32.035 (1) (a), 36.25 (7) ~~36.25~~ (11) (c), 36.58
(2) (a) 3. ~~36.58~~ (c), ~~36.58~~ (3) (b), ~~36.58~~ (5), 41.41 (4) (c) ~~41.41~~ (5) (e), 42.10,
59.70 (17) (a), 61.72, 66.0217 (9) (b), 66.0307 (4) (a) 1., 66.0417 (1), 69.66, 84.01
(17), 86.19 (1m), 88.11 (1) ~~88.11~~ (1m), ~~88.11~~ (3), ~~88.11~~ (4), ~~88.11~~ (5), ~~88.11~~ (6), and
~~88.11~~ (7), 88.13, 88.15 ~~88.15~~ (2), ~~88.15~~ (3), 88.19 (4) (a) ~~88.19~~ (d), 88.21
(5), 88.24, 88.32 (3m), 88.35 (7), 88.77 (2), 91.01 (3), 92.03 (3), 92.14 (6) (d)
~~92.14~~ (m) ~~92.14~~ (14m), 92.15 (3) ~~92.15~~ (b), ~~92.15~~ (c), 93 (title), 93.01 (3) and
~~93.01~~ (15), 93.09 (6), 93.135 (2), 93.20 (1), 93.75 (3m) (b), ~~93.75~~ (c), ~~93.75~~ and
~~93.75~~ (d), 94.72 (1) (d), 94.73 (2m) (b), ~~94.73~~ (c), ~~94.73~~ (e), ~~94.73~~ (4)
(b), ~~94.73~~ (9), 95.22 (1) ~~95.22~~ (3), 95.45 (4) (b), 95.55 (5) ~~95.55~~ (c), 97.01
(4), ~~97.01~~ (10) (c), ~~97.09~~ (1), 97.24 (3), 97.41 (1m), 98.04 (1) ~~98.04~~ (2), ~~100.18~~
(11) (a), ~~100.207~~ (6) (b) 1., ~~100.207~~ (6) (b) 2., ~~100.207~~ (6) (c), ~~100.207~~ (6) (em)

(cont.)

~~2, 100.26 (6)~~ ~~101.175 (3)~~ ~~101.58 (2) (i)~~, 101.586, 126.01 (8), 134.71 (12),
 136.03 (title), 136.03 (1) (intro.), 136.04 (title), 136.04 (1), 136.04 (2), 146.60
 (1) (c), ~~146.60~~ (2) (b), ~~146.60~~ (3) (c) 1., ~~146.60~~ (2), ~~146.60~~ (5), 160.01 (7),
 165.065 (2), 165.25 (4) (ar), 169.01 (7), ~~169.01~~ (35) (a), 169.03, 169.04 (2) (d),
~~169.04~~ (3) (a), 169.06 (1) (d) 1., 169.11 (1) (a), 169.38 (title), 169.42 (1) (i),
 173.01 (1), 174.001 (2), 174.11 (1), ~~174.11~~ (2), 182.01 (6), 196.857 (1g) (e),
 227.14 (1s), 230.08 (2) (e) 2., 235.02 (2) (c), 235.04 (6), 254.02 (3) (a), 254.51
 (2), 254.52 (2), 254.58, 254.64 (1) (d), 254.69 (2) (am), 254.89, 281.16 (3) (a),
~~281.16~~ (b), ~~281.16~~ (c), ~~281.16~~ (e), 281.20 (1) (a), ~~281.20~~ (3) (c), ~~281.20~~,
~~281.20~~ 1., ~~281.20~~ 2., ~~281.20~~ (3) (d) 3., 281.65 (3) (f), ~~281.65~~ (3m) (a) 1.,
~~281.65~~ (b) 1., ~~281.65~~ (4) (as), ~~281.65~~ (dr), ~~281.65~~ (e), ~~281.65~~ (g),
~~281.65~~ 2., ~~281.65~~ 4., ~~281.65~~ (i), ~~281.65~~ (L), ~~281.65~~ (o),
~~281.65~~ (p), ~~281.65~~ (pm), ~~281.65~~ (4c) (am) 2., ~~281.65~~ (4m) (c), ~~281.65~~ and
 (d), ~~281.65~~ (5), ~~281.65~~ (5m), ~~281.65~~ (7) (a) 2., ~~281.65~~ (10), ~~281.65~~ (11), ~~281.65~~ and
 (12), 281.67, 281.695 (5), 281.75 (1) (e) 1., 287.11 (2s) (a), ~~287.11~~ (b), 292.11
 (2) (d), ~~292.11~~ (9) (d) 1. d., 292.33 (6), 299.11 (2), ~~299.11~~ (a), ~~299.11~~ (b),
~~299.11~~ (5) (a), ~~344.576~~ (3) (a) 5., 344.576 (3) (c), 344.579 (2), 348.01 (2) (am),
 348.15 (5), 348.17 (4) (a), ~~348.17~~ (b), 348.27 (11m) (a), 440.92 (7), 560.03
 (1), ~~560.03~~ (18), 560.07 (6), 560.17 (7) (am), 560.92 (1), 562.02 (2) (fm), ~~704.90~~
 (9), ~~704.90~~ (11) (title), ~~704.90~~ (11) (a), ~~707.49~~ (4), ~~707.57~~ (2), ~~707.57~~ (2) (a),

~~707.57 (2) (b)~~ ~~707.57 (3)~~ ~~710.02 (4) (a)~~ ~~779.41 (1m)~~ ~~779.93 (title)~~ ~~779.93 (1)~~
~~779.93 (2)~~ 823.08 (3) (c) 1., 885.01 (4), 895.57 (3), 943.75 (3), 943.76 (3) (c)

Intro

Intro

and



2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2913/2
MGG/RNK/RPN:kmg:rs

SCC:.....Engel – CN7906, Transfer from DATCP to DOJ consumer protection functions

FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1**

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

2 **1.** Page 12, line 10: after that line insert:

3 **"20.455 Justice, department of**

4 (1) LEGAL AND REGULATORY SERVICES

5 (g) Consumer protection, informa-

6 tion, and education PR A 175,000 175,000".

7 **2.** Page 13, line 10: after that line insert:

8 **"SECTION 27m. 20.115 (1) (hm) of the statutes is amended to read:**

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

7 **3.** Page 13, line 11: after that line insert:

8 “SECTION 28m. 20.115 (8) (jm) of the statutes is repealed.”.

9 **4.** Page 17, line 5: after that line insert:

10 “SECTION 41g. 20.455 (1) (title) of the statutes is amended to read:

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

12 SECTION 41m. 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 (3) (e).

17 SECTION 41p. 20.455 (1) (j) of the statutes is created to read:

18 20.455 (1) (j) *Telephone solicitation regulation*. All moneys received from
19 telephone solicitor registration and registration renewal fees paid under the rules
20 promulgated under s. 100.52 (3) (a) for establishing and maintaining the
21 nonsolicitation directory under s. 100.52 (2).”.

22 **5.** Page 154, line 4: after that line insert:

23 “SECTION 259d. 93.07 (1) of the statutes is amended to read:

1 93.07 (1) REGULATIONS. To make and enforce such regulations, not inconsistent
2 with law, as it may deem necessary for the exercise and discharge of all the powers
3 and duties of the department, and to adopt such measures and make such
4 regulations as are necessary and proper for the ~~enforcement by the state of~~
5 department to carry out its duties and powers under chs. 93 to 100, which regulations
6 shall have the force of law.”.

7 **6.** Page 154, line 17: after that line insert:

8 “SECTION 259sd. 93.07 (23) of the statutes is created to read:

9 93.07 (23) CONSUMER PROTECTION ADMINISTRATION. To administer ss. 100.01 to
10 100.03, 100.05 to 100.07, 100.14, 100.183 to 100.19, 100.201, 100.206, 100.208,
11 100.21, 100.22, 100.235; 100.265, 100.27, 100.285 to 100.297, 100.30, 100.33 to
12 100.36, 100.45, 100.47, 100.48, and 100.51 and to enforce ss. 100.206, 100.21, 100.30,
13 and 100.51.

14 SECTION 259se. 93.07 (24) of the statutes is amended to read:

15 93.07 (24) ENFORCEMENT OF LAWS. To enforce or assist in the enforcement of chs.
16 88 and 93 to 100 and all other laws entrusted to its administration, and especially:

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

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

22 (c) To inspect any milk, butter, cheese, lard, syrup, coffee, tea or other article
23 of food, drink, condiment or drug made or offered for sale within this state which it
24 may suspect or have reason to believe, under the laws administered by the

1 department, to be impure, unhealthful, misbranded, adulterated or counterfeit, or
2 in any way unlawful.

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

8 **SECTION 259sf.** 93.18 (3) of the statutes is amended to read:

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

21 **SECTION 259sh.** 93.18 (7) of the statutes is created to read:

22 93.18 (7) The department of justice shall follow the procedures under subs. (1),
23 (2), (4), (5), and (6) in enforcing the provisions of ch. 100 that are administered by the
24 department of justice.

25 **SECTION 259sj.** 93.20 (1) of the statutes is amended to read:

1 **93.20 (1) DEFINITION.** In this section, “action” means an action that is
2 commenced in court by, or on behalf of, the department of agriculture, trade and
3 consumer protection to enforce chs. 88, 91 to 100 or 127 or an action that is
4 commenced in court by the department of justice to enforce ch. 100.

5 **SECTION 259sm.** 93.22 (1) of the statutes is amended to read:

6 **93.22 (1)** In cases arising under chs. 88 and 93 to ~~100~~ 99 and ss. 100.206, 100.21,
7 100.30, and 100.51, the department may be represented by its attorney.

8 **SECTION 259sp.** 93.22 (2) of the statutes is amended to read:

9 **93.22 (2)** The department may, with the approval of the governor, appoint
10 special counsel to prosecute or assist in the prosecution of any case arising under chs.
11 88 and 93 to ~~100~~ 99 and ss. 100.206, 100.21, 100.30, and 100.51. The cost of such
12 special counsel shall be charged to the appropriation for the department.”.

13 **7.** Page 155, line 7: after that line insert:

14 **“SECTION 262m.** 100.07 (6) of the statutes is amended to read:

15 **100.07 (6)** ~~Action~~ Upon request of the department, an action to enjoin violation
16 of this section may be commenced and prosecuted by the department of justice in the
17 name of the state in any court having equity jurisdiction.”.

18 **8.** Page 155, line 13: after that line insert:

19 **“SECTION 263bb.** 100.171 (7) (b) of the statutes, as affected by 2001 Wisconsin
20 Act (this act), is amended to read:

21 **100.171 (7) (b)** Whoever intentionally violates this section is guilty of a Class
22 I felony. A person intentionally violates this section if the violation occurs after the
23 department of justice or a district attorney has notified the person by certified mail
24 that the person is in violation of this section.

1 **SECTION 263bd.** 100.171 (8) (intro.) of the statutes is amended to read:

2 100.171 (8) ENFORCEMENT. (intro.) The department of justice shall investigate
3 violations of this section. The department of justice or any district attorney may on
4 behalf of the state:

5 **SECTION 263bg.** 100.173 (4) (intro.) of the statutes is amended to read:

6 100.173 (4) (intro.) The department of justice shall investigate violations of this
7 section. The department of justice, or any district attorney upon informing the
8 department of justice, may, on behalf of the state, do any of the following:

9 **SECTION 263bj.** 100.173 (4) (a) of the statutes is amended to read:

10 100.173 (4) (a) Bring an action for temporary or permanent injunctive relief in
11 any court of competent jurisdiction for any violation of this section. The relief sought
12 by the department of justice or district attorney may include the payment by a
13 promoter into an escrow account of an amount estimated to be sufficient to pay for
14 ticket refunds. The court may, upon entry of final judgment, award restitution when
15 appropriate to any person suffering loss because of violations of this section if proof
16 of such loss is submitted to the satisfaction of the court.

17 **SECTION 263bn.** 100.174 (5) (intro.) of the statutes is amended to read:

18 100.174 (5) (intro). The department of justice or any district attorney may on
19 behalf of the state:

20 **SECTION 263bq.** 100.174 (6) of the statutes is amended to read:

21 100.174 (6) The department of justice shall investigate violations of and
22 enforce this section.

23 **SECTION 263bt.** 100.175 (5) (a) (intro.) of the statutes is amended to read:

24 100.175 (5) (a) (intro.) No person may collect or by contract require a buyer to
25 pay more than \$100 for dating services before the buyer receives or has the

1 opportunity to receive those services unless the person selling dating services
2 establishes proof of financial responsibility by maintaining any of the following
3 commitments approved by the department of justice in an amount not less than
4 \$25,000:

5 **SECTION 263bw.** 100.175 (5) (b) of the statutes is amended to read:

6 100.175 (5) (b) The commitment described in par. (a) shall be established in
7 favor of or made payable to the state, for the benefit of any buyer who does not receive
8 a refund under the contractual provision described in sub. (3). The person selling
9 dating services shall file with the department of justice any agreement, instrument
10 or other document necessary to enforce the commitment against the person selling
11 dating services or any relevant 3rd party, or both.

12 **SECTION 263bz.** 100.175 (7) (a) (intro.) of the statutes is amended to read:

13 100.175 (7) (a) (intro.) The department of justice or any district attorney may
14 on behalf of the state:

15 **SECTION 263gb.** 100.175 (7) (b) of the statutes is amended to read:

16 100.175 (7) (b) The department of justice may bring an action in circuit court
17 to recover on a financial commitment maintained under sub. (5) against a person
18 selling dating services or relevant 3rd party, or both, on behalf of any buyer who does
19 not receive a refund due under the contractual provision described in sub. (3).

20 **SECTION 263gd.** 100.177 (1) (bm) of the statutes is created to read:

21 100.177 (1) (bm) Notwithstanding s. 93.01 (3), "department" means the
22 department of justice.

23 **SECTION 263gg.** 100.178 (1) (b) of the statutes is amended to read:

24 100.178 (1) (b) Notwithstanding s. 93.01 (3), "department" means the
25 department of ~~health and family services~~ justice.

1 **SECTION 263gj.** 100.18 (11) (a) of the statutes is amended to read:

2 100.18 (11) (a) The department of ~~agriculture, trade and consumer protection~~
3 justice shall enforce this section. Actions to enjoin violation of this section or any
4 regulations thereunder may be commenced and prosecuted by the department of
5 justice in the name of the state in any court having equity jurisdiction. This remedy
6 is not exclusive.

7 **SECTION 263gm.** 100.18 (11) (b) 3. of the statutes is amended to read:

8 100.18 (11) (b) 3. No action may be commenced under this section more than
9 3 years after the occurrence of the unlawful act or practice which is the subject of the
10 action. No injunction may be issued under this section which would conflict with
11 general or special orders of the department of justice or any statute, rule or
12 regulation of the United States or of this state.

13 **SECTION 263gp.** 100.18 (11) (c) 1. of the statutes is amended to read:

14 100.18 (11) (c) 1. Whenever the department of justice has reason to believe that
15 a person is in possession, custody or control of any information or documentary
16 material relevant to the enforcement of this section it may require that person to
17 submit a statement or report, under oath or otherwise, as to the facts and
18 circumstances concerning any activity in the course of trade or commerce; examine
19 under oath that person with respect to any activity in the course of trade or
20 commerce; and execute in writing and cause to be served upon such person a civil
21 investigative demand requiring the person to produce any relevant documentary
22 material for inspection and copying.

23 **SECTION 263gs.** 100.18 (11) (c) 2. of the statutes is amended to read:

1 100.18 (11) (c) 2. The department of justice, in exercising powers under this
2 subsection, may issue subpoenas, administer oaths and conduct hearings to aid in
3 any investigation.

4 **SECTION 263gu.** 100.18 (11) (c) 3. of the statutes is amended to read:

5 100.18 (11) (c) 3. Service of any notice by the department of justice requiring
6 a person to file a statement or report, or service of a subpoena upon a person, or
7 service of a civil investigative demand shall be made in compliance with the rules of
8 civil procedure of this state.

9 **SECTION 263gx.** 100.18 (11) (c) 4. of the statutes is amended to read:

10 100.18 (11) (c) 4. If a person fails to file any statement or report, or fails to
11 comply with any civil investigative demand, or fails to obey any subpoena issued by
12 the department of justice, such person may be coerced as provided in s. 885.12, except
13 that no person shall be required to furnish any testimony or evidence under this
14 subsection which might tend to incriminate the person.

15 **SECTION 263mb.** 100.18 (11) (d) of the statutes is amended to read:

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

1 ~~department of justice may request the department to exercise its authority under~~
2 ~~par. (c) to aid in the investigation of alleged violations of this section.~~

3 **SECTION 263mf.** 100.18 (11) (e) of the statutes is amended to read:

4 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
5 section, ~~the department or~~ the department of justice may accept a written assurance
6 of discontinuance of any act or practice alleged to be a violation of this section from
7 the person who has engaged in such act or practice. The acceptance of such assurance
8 by ~~either the department or~~ the department of justice shall be deemed acceptance by
9 ~~the other state officials enumerated in par. (d)~~ any district attorney if the terms of
10 the assurance so provide. An assurance entered into pursuant to this section shall
11 not be considered evidence of a violation of this section, provided that violation of
12 such an assurance shall be treated as a violation of this section, and shall be
13 subjected to all the penalties and remedies provided therefor.

14 **SECTION 263mj.** 100.182 (5) (a) of the statutes is amended to read:

15 100.182 (5) (a) Any district attorney, after informing the department of justice,
16 or the department of justice may seek a temporary or permanent injunction in circuit
17 court to restrain any violation of this section. Prior to entering a final judgment the
18 court may award damages to any person suffering monetary loss because of a
19 violation. The department of justice may subpoena any person or require the
20 production of any document to aid in investigating alleged violations of this section.

21 **SECTION 263mm.** 100.182 (5) (b) of the statutes is amended to read:

22 100.182 (5) (b) In lieu of instituting or continuing an action under this
23 subsection, the department of justice may accept a written assurance from a violator
24 of this section that the violation has ceased. If the terms of the assurance so provide,
25 its acceptance by the department of justice prevents all district attorneys from

1 prosecuting the violation. An assurance is not evidence of a violation of this section
2 but violation of an assurance is subject to the penalties and remedies of violating this
3 section.

4 **SECTION 263mp.** 100.20 (2) (a) of the statutes is amended to read:

5 100.20 (2) (a) The department of justice, after public hearing, may issue
6 general orders forbidding methods of competition in business or trade practices in
7 business which are determined by the department of justice to be unfair. The
8 department of justice, after public hearing, may issue general orders prescribing
9 methods of competition in business or trade practices in business which are
10 determined by the department of justice to be fair.

11 **SECTION 263mr.** 100.20 (2) (b) of the statutes is amended to read:

12 100.20 (2) (b) Notwithstanding par. (a), the department of justice may not issue
13 any order or promulgate any rule that regulates the provision of water or sewer
14 service by a manufactured home park operator, as defined in s. 101.91 (8), or
15 manufactured home park contractor, as defined in s. 101.91 (6m), or enforce any rule
16 to the extent that the rule regulates the provision of such water or sewer service.

17 **SECTION 263mt.** 100.20 (3) of the statutes is amended to read:

18 100.20 (3) The department of justice, after public hearing, may issue a special
19 order against any person, enjoining such person from employing any method of
20 competition in business or trade practice in business which is determined by the
21 department of justice to be unfair or from providing service in violation of sub. (1t).
22 The department of justice, after public hearing, may issue a special order against any
23 person, requiring such person to employ the method of competition in business or
24 trade practice in business which is determined by the department of justice to be fair.

25 **SECTION 263mv.** 100.20 (4) of the statutes is amended to read:

1 100.20 (4) ~~The If the department of justice may file a written complaint with~~
2 ~~the department alleging that the~~ has reason to believe that a person named is
3 employing unfair methods of competition in business or unfair trade practices in
4 business or both. ~~Whenever such a complaint is filed,~~ it shall be the duty of the
5 department of justice to proceed, after proper notice and in accordance with its rules,
6 to the hearing and adjudication of the ~~matters alleged,~~ and a representative of the
7 department ~~of justice designated by the attorney general may appear before the~~
8 department ~~in such proceedings.~~ The department of justice shall be entitled to
9 judicial review of the decisions and orders of the department under ch. 227 matter.

10 **SECTION 263mx.** 100.20 (6) of the statutes is amended to read:

11 100.20 (6) The department of justice may commence an action in circuit court
12 in the name of the state to restrain by temporary or permanent injunction the
13 violation of any order issued under this section. The court may in its discretion, prior
14 to entry of final judgment make such orders or judgments as may be necessary to
15 restore to any person any pecuniary loss suffered because of the acts or practices
16 involved in the action, provided proof thereof is submitted to the satisfaction of the
17 court. The department of justice may ~~use its authority in ss. 93.14 and 93.15 to~~
18 investigate violations of any order issued under this section.

19 **SECTION 263mz.** 100.201 (6) (d) of the statutes is amended to read:

20 100.201 (6) (d) The failure to pay fees under this subsection within the time
21 provided under par. (c) is a violation of this section. The department of justice may
22 also commence an action to recover the amount of any overdue fees plus interest at
23 the rate of 2% per month for each month that the fees are delinquent.

24 **SECTION 263nb.** 100.201 (8m) (intro.) of the statutes is amended to read:

1 100.201 **(8m)** JURISDICTION. (intro.) This section shall apply to transactions,
2 acts or omissions which take place in whole or in part outside this state. In any action
3 or administrative proceeding the department of justice has jurisdiction of the person
4 served under s. 801.11 when any act or omission outside this state by the defendant
5 or respondent results in local injury or may have the effect of injuring competition
6 or a competitor in this state or unfairly diverts trade or business from a competitor,
7 if at the time:

8 **SECTION 263nd.** 100.201 (9) (b) of the statutes is amended to read:

9 100.201 **(9)** (b) The department, after public hearing held under s. 93.18, may
10 issue a special order against any person requiring such person to cease and desist
11 from acts, practices or omissions determined by the department to violate this
12 section. Such orders shall be subject to judicial review under ch. 227. Any violation
13 of a special order issued hereunder shall be punishable as a contempt under ch. 785
14 in the manner provided for disobedience of a lawful order of a court, upon the filing
15 of an affidavit by the department of justice of the commission of such violation in any
16 court of record in the county where the violation occurred.

17 **SECTION 263nf.** 100.201 (9) (c) of the statutes is amended to read:

18 100.201 **(9)** (c) The department of justice, in addition to or in lieu of any other
19 remedies herein provided, may apply to a circuit court for a temporary or permanent
20 injunction to prevent, restrain or enjoin any person from violating this section or any
21 special order of the department of agriculture, trade and consumer protection issued
22 hereunder under this section, without being compelled to allege or prove that an
23 adequate remedy at law does not exist.

24 **SECTION 263nj.** 100.205 (7) of the statutes is amended to read:

1 100.205 (7) The department of justice, or any district attorney on informing the
2 department of justice, may commence an action in circuit court in the name of the
3 state to restrain by temporary or permanent injunction any violation of this section.
4 The court may, before entry of final judgment and after satisfactory proof, make
5 orders or judgments necessary to restore to any person any pecuniary loss suffered
6 because of a violation of this section. The department of justice may conduct
7 hearings, administer oaths, issue subpoenas and take testimony to aid in its
8 investigation of violations of this section.

9 **SECTION 263nm.** 100.205 (8) of the statutes is amended to read:

10 100.205 (8) The department of justice or any district attorney may commence
11 an action in the name of the state to recover a forfeiture to the state of not more than
12 \$10,000 for each violation of this section.

13 **SECTION 263nn.** 100.207 (1) of the statutes is renumbered 100.207 (1) (intro.)
14 and amended to read:

15 100.207 (1) DEFINITION DEFINITIONS. (intro.) In this section,
16 “telecommunications:

17 (b) “Telecommunications service” has the meaning given in s. 196.01 (9m).

18 **SECTION 263no.** 100.207 (1) (a) of the statutes is created to read:

19 100.207 (1) (a) Notwithstanding s. 93.01 (3), “department” means the
20 department of justice.

21 **SECTION 263nq.** 100.207 (6) (b) 1. of the statutes is amended to read:

22 100.207 (6) (b) 1. The department ~~of justice, after consulting with the~~
23 ~~department of agriculture, trade and consumer protection,~~ or any district attorney
24 upon informing the department ~~of agriculture, trade and consumer protection,~~ may
25 commence an action in circuit court in the name of the state to restrain by temporary

1 or permanent injunction any violation of this section. Injunctive relief may include
2 an order directing telecommunications providers, as defined in s. 196.01 (8p), to
3 discontinue telecommunications service provided to a person violating this section
4 or ch. 196. Before entry of final judgment, the court may make such orders or
5 judgments as may be necessary to restore to any person any pecuniary loss suffered
6 because of the acts or practices involved in the action if proof of these acts or practices
7 is submitted to the satisfaction of the court.

8 **SECTION 263nt.** 100.207 (6) (b) 2. of the statutes is amended to read:

9 100.207 (6) (b) 2. The department ~~may exercise its authority under ss. 93.14~~
10 ~~to 93.16 and 100.18 (11) (c) to~~ shall administer this section. The department and the
11 department of justice may subpoena persons and, require the production of books
12 and other documents, and ~~the department of justice may request the department of~~
13 ~~agriculture, trade and consumer protection to exercise its authority to aid in the~~
14 ~~investigation of~~ investigate alleged violations of this section.

15 **SECTION 263nv.** 100.207 (6) (c) of the statutes is amended to read:

16 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to
17 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this
18 paragraph shall be enforced by the department of justice, ~~after consulting with the~~
19 ~~department of agriculture, trade and consumer protection,~~ or, upon informing the
20 department, by the district attorney of the county where the violation occurs.

21 **SECTION 263nz.** 100.207 (6) (em) 1. of the statutes is amended to read:

22 100.207 (6) (em) 1. Before preparing any proposed rule under this section, the
23 department shall form an advisory group to suggest recommendations regarding the
24 content and scope of the proposed rule. The advisory group shall consist of one or

1 more persons who may be affected by the proposed rule, ~~a representative from the~~
2 ~~department of justice~~ and a representative from the public service commission.

3 **SECTION 263pb.** 100.207 (6) (em) 2. of the statutes is amended to read:

4 100.207 (6) (em) 2. The department shall submit the recommendations under
5 subd. 1., if any, to the legislature as part of the report required under s. 227.19 (2)
6 ~~and to the board of agriculture, trade and consumer protection.~~

7 **SECTION 263pf.** 100.208 (2) (intro.) of the statutes is amended to read:

8 100.208 (2) (intro.) The department of justice shall notify the public service
9 commission if any of the following conditions exists:

10 **SECTION 263pj.** 100.208 (2) (b) of the statutes is amended to read:

11 100.208 (2) (b) The department of justice has issued an order under s. 100.20
12 (3) prohibiting a telecommunications provider from engaging in an unfair trade
13 practice or method of competition.

14 **SECTION 263pm.** 100.209 (3) of the statutes is amended to read:

15 100.209 (3) RULES AND LOCAL ORDINANCES ALLOWED. This section does not
16 prohibit the department of justice from promulgating a rule or from issuing an order
17 consistent with its authority under this chapter that gives a subscriber greater rights
18 than the rights under sub. (2) or prohibit a city, village or town from enacting an
19 ordinance that gives a subscriber greater rights than the rights under sub. (2).

20 **SECTION 263pp.** 100.209 (4) (b) of the statutes is amended to read:

21 100.209 (4) (b) The department of justice and the district attorneys of this state
22 have concurrent authority to institute civil proceedings under this section.

23 **SECTION 263ps.** 100.2095 (6) (b) of the statutes is amended to read:

24 100.2095 (6) (b) The department of justice may commence an action in the
25 name of the state to restrain by temporary or permanent injunction a violation of sub.

1 (3), (4) or (5). Before entry of final judgment, the court may make any necessary
2 orders to restore to any person any pecuniary loss suffered by the person because of
3 the violation.

4 **SECTION 263pv.** 100.2095 (6) (c) of the statutes is amended to read:

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

8 **9.** Page 155, line 17: after that line insert:

9 “**SECTION 264d.** 100.21 (2) (a) of the statutes is amended to read:

10 100.21 (2) (a) No person may make an energy savings or safety claim without
11 a reasonable and currently accepted scientific basis for the claim when the claim is
12 made. Making an energy savings or safety claim without a reasonable and currently
13 accepted scientific basis is also an unfair method of competition and trade practice
14 prohibited under s. 100.20.

15 **SECTION 264h.** 100.21 (4) (a) (intro.) of the statutes is amended to read:

16 100.21 (4) (a) (intro.) The department may, after public hearing, issue general
17 or special orders under s. 100.20:

18 **SECTION 264p.** 100.22 (4) (b) of the statutes is amended to read:

19 100.22 (4) (b) The department of justice may, without alleging or proving that
20 no other adequate remedy at law exists, bring an action to enjoin violations of this
21 section or a special order issued under this section in the circuit court for the county
22 where the alleged violation occurred.

23 **SECTION 264t.** 100.235 (11) (a) of the statutes is amended to read:

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

5 **10.** Page 156, line 3: after that line insert:

6 “SECTION 266m. 100.26 (6) of the statutes is amended to read:

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

17 **11.** Page 156, line 9: after that line insert:

18 “SECTION 267kb. 100.261 (3) (b) of the statutes, as affected by 2001 Wisconsin
19 Act 16, is amended to read:

20 100.261 (3) (b) The state treasurer shall deposit the consumer protection
21 assessment amounts imposed for a violation of ch. 98, a rule promulgated under ch.
22 98, or an ordinance enacted under ch. 98 in the general fund and shall credit them
23 to the appropriation account under s. 20.115 (1) (jb), subject to the limit under par.
24 (c).

1 **SECTION 267kd.** 100.261 (3) (d) of the statutes is created to read:

2 100.261 (3) (d) The state treasurer shall deposit the consumer protection
3 assessment amounts imposed for a violation of this chapter, a rule promulgated
4 under this chapter, or an ordinance enacted under this chapter in the general fund
5 and shall credit them to the appropriation account under s. 20.455 (1) (g), subject to
6 the limit under par. (e).

7 **SECTION 267ke.** 100.261 (3) (e) of the statutes is created to read:

8 100.261 (3) (e) The amount credited to the appropriation account under s.
9 20.455 (1) (g) may not exceed \$185,000 in each fiscal year.

10 **SECTION 267kf.** 100.263 of the statutes is amended to read:

11 **100.263 Recovery.** In addition to other remedies available under this chapter,
12 the court may award ~~the department~~ the reasonable and necessary costs of
13 investigation and an amount reasonably necessary to remedy the harmful effects of
14 the violation and the court may award ~~the department of justice~~ the reasonable and
15 necessary expenses of prosecution, including attorney fees, from any person who
16 violates this chapter. ~~The department and the department of justice~~ amounts
17 awarded under this subsection shall ~~deposit~~ be deposited in the state treasury for
18 deposit in the general fund ~~all moneys that the court awards to the department, the~~
19 ~~department of justice or the state under this section.~~ Ten percent of the money
20 deposited in the general fund that was awarded under this section for the costs of
21 investigation and the expenses of prosecution, including attorney fees, shall be
22 credited to the appropriation account under s. 20.455 (1) (gh).

23 **SECTION 267kh.** 100.28 (4) (b) of the statutes is amended to read:

1 100.28 (4) (b) In lieu of or in addition to forfeitures under par. (a), the
2 department of justice may seek an injunction restraining any person from violating
3 this section.

4 **SECTION 267kj.** 100.28 (4) (c) of the statutes is amended to read:

5 100.28 (4) (c) The department of justice, or any district attorney upon the
6 request of the department of justice, may commence an action in the name of the
7 state under par. (a) or (b).

8 **SECTION 267kL.** 100.31 (4) of the statutes is amended to read:

9 100.31 (4) PENALTIES. For any violation of this section, the department of
10 justice or a district attorney may commence an action on behalf of the state to recover
11 a forfeiture of not less than \$100 nor more than \$10,000 for each offense. Each
12 delivery of a drug sold to a purchaser at a price in violation of this section and each
13 separate day in violation of an injunction issued under this section is a separate
14 offense.

15 **SECTION 267kn.** 100.31 (5) of the statutes is amended to read:

16 100.31 (5) SPECIAL REMEDIES. The department of justice or a district attorney
17 may bring an action to enjoin a violation of this section without being compelled to
18 allege or prove that an adequate remedy at law does not exist. An action under this
19 subsection may be commenced and prosecuted by the department of justice or a
20 district attorney, in the name of the state, in a circuit court in the county where the
21 offense occurred or in Dane County, notwithstanding s. 801.50.

22 **SECTION 267ko.** 100.37 (1) (am) of the statutes is created to read:

23 100.37 (1) (am) Notwithstanding s. 93.01 (3), “department” means the
24 department of justice.

25 **SECTION 267kp.** 100.38 (5) of the statutes is amended to read:

1 100.38 (5) INSPECTION. The department of justice shall enforce this section by
2 inspection, chemical analyses or any other appropriate method and the department
3 of justice may promulgate such rules as are necessary to effectively enforce this
4 section.

5 **SECTION 267kq.** 100.38 (6) of the statutes is amended to read:

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

9 **SECTION 267kr.** 100.41 (1) (bn) of the statutes is created to read:

10 100.41 (1) (bn) Notwithstanding s. 93.01 (3), “department” means the
11 department of justice.

12 **SECTION 267ks.** 100.42 (1) (cm) of the statutes is created to read:

13 100.42 (1) (cm) Notwithstanding s. 93.01 (3), “department” means the
14 department of justice.

15 **SECTION 267kt.** 100.43 (1) (am) of the statutes is created to read:

16 100.43 (1) (am) Notwithstanding s. 93.01 (3), “department” means the
17 department of justice.

18 **SECTION 267ku.** 100.44 (5) of the statutes is amended to read:

19 100.44 (5) ENFORCEMENT. For any violation of sub. (3), the department of justice
20 may, on behalf of the state, bring an action in any court of competent jurisdiction for
21 the recovery of forfeitures authorized under sub. (4), for temporary or permanent
22 injunctive relief and for any other appropriate relief. The court may make any order
23 or judgment that is necessary to restore to any person any pecuniary loss suffered
24 because of a violation of sub. (3) if proof of the loss is shown to the satisfaction of the
25 court.

1 **SECTION 267kv.** 100.46 (1) of the statutes is amended to read:

2 100.46 (1) ENERGY CONSERVATION STANDARDS. The department of justice may by
3 rule adopt energy conservation standards for products that have been established in
4 or promulgated under 42 USC 6291 to 6309.

5 **SECTION 267kw.** 100.46 (2) of the statutes is amended to read:

6 100.46 (2) PROHIBITED ACTS; ENFORCEMENT. No person may sell at retail, install
7 or cause to be installed any product that is not in compliance with rules promulgated
8 under sub. (1). In addition to other penalties and enforcement procedures, the
9 department of justice may apply to a court for a temporary or permanent injunction
10 restraining any person from violating a rule adopted under sub. (1).

11 **SECTION 267kx.** 100.50 (6) (b) of the statutes is amended to read:

12 100.50 (6) (b) In lieu of or in addition to the remedy under par. (a), the
13 department of justice may seek an injunction restraining any person from violating
14 this section.

15 **SECTION 267ky.** 100.50 (6) (c) of the statutes is amended to read:

16 100.50 (6) (c) The department of justice, or any district attorney upon the
17 request of the department of justice, may commence an action in the name of the
18 state under par. (a) or (b).

19 **SECTION 267kz.** 100.52 (1) (bn) of the statutes is created to read:

20 100.52 (1) (bn) Notwithstanding s. 93.01 (3), “department” means the
21 department of justice.”.

22 **12.** Page 156, line 20: after that line insert:

23 **“SECTION 269m.** 101.175 (3) (intro.) of the statutes is amended to read:

1 101.175 (3) (intro.) The department, in consultation with the department of
2 ~~agriculture, trade and consumer protection~~ justice, shall establish by rule quality
3 standards for local energy resource systems which do not impede development of
4 innovative systems but which do:".

5 **13.** Page 167, line 16: after that line insert:

6 "SECTION 312m. 134.71 (12) of the statutes is amended to read:

7 134.71 (12) APPLICATIONS AND FORMS. The department of agriculture, trade and
8 consumer protection, in consultation with the department of justice, shall develop
9 applications and other forms required under subs. (5) (intro.) and (8) (c). The
10 department of agriculture, trade and consumer protection shall print a sufficient
11 number of applications and forms to provide to counties and municipalities for
12 distribution to pawnbrokers, secondhand article dealers and secondhand jewelry
13 dealers at no cost.

14 SECTION 314m. 136.03 (title) of the statutes is amended to read:

15 **136.03** (title) **Duties of the department of agriculture, trade and**
16 **~~consumer protection~~ justice.**

17 SECTION 314p. 136.03 (1) (intro.) of the statutes is amended to read:

18 136.03 (1) (intro.) The department of ~~agriculture, trade and consumer~~
19 ~~protection~~ of justice shall investigate violations of this chapter and of rules and
20 orders issued under s. 136.04. The department of justice may subpoena persons and
21 records to facilitate its investigations, and may enforce compliance with such
22 subpoenas as provided in s. 885.12. The department of justice may ~~in~~ on behalf of
23 the state:

24 SECTION 314r. 136.04 of the statutes is amended to read:

1 **136.04 Powers of the department of agriculture, trade and consumer**
2 **protection justice.** (1) The department of agriculture, trade and consumer
3 protection justice may adopt such rules as may be required to carry out the purposes
4 of this chapter.

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

9 **14.** Page 173, line 16: after that line insert:

10 “SECTION 338g. 165.065 (2) of the statutes is amended to read:

11 165.065 (2) The assistant attorney general in charge of antitrust investigations
12 and prosecutions is to cooperate actively with the antitrust division of the U.S.
13 department of justice in everything that concerns monopolistic practices in
14 Wisconsin, and also to cooperate actively with the department of agriculture, trade
15 and consumer protection in the work which this agency is carrying on under s. 100.20
16 of the marketing law with regard to monopolistic practices in the field of agriculture
17 and with the federal trade commission on matters arising in or affecting Wisconsin
18 which pertain to its jurisdiction.

19 SECTION 338m. 165.25 (4) (ar) of the statutes, as affected by 2001 Wisconsin
20 Act 16, section 2856b, is amended to read:

21 165.25 (4) (ar) The department of justice shall ~~furnish all legal services~~
22 ~~required by~~ represent the department of agriculture, trade and consumer protection
23 in any court action relating to the enforcement of ~~ss. 100.171, 100.173, 100.174,~~
24 ~~100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21,~~

1 ~~100.28, 100.37, 100.42, 100.50 and 100.51 and chs. 126, 136, 344, 704, 707, and 779~~
2 ~~ch. 126 and 100.01 to 100.03, 100.05 to 100.07, 100.14, 100.183 to 100.19, 100.201,~~
3 ~~100.22, 100.235, 100.27, 100.285 to 100.297, 100.33 to 100.36, 100.45, 100.47, and~~
4 ~~100.48, together with any other services as are necessarily connected to the legal~~
5 ~~services.~~

6 **SECTION 338r.** 165.25 (11) of the statutes is created to read:

7 165.25 (11) CONSUMER PROTECTION ADMINISTRATION AND ENFORCEMENT.
8 Administer and enforce ss. 100.15 to 100.182, 100.20, 100.205, 100.207 to 100.2095,
9 100.28, 100.31, 100.37 to 100.44, 100.46, 100.50, and 100.52 and chs. 136, 344, 704,
10 707, and 779. The department may issue general or special orders in administering
11 and enforcing these provisions.”.

12 **15.** Page 211, line 13: after that line insert:

13 “**SECTION 442g.** 344.576 (3) (a) 5. of the statutes is amended to read:

14 344.576 (3) (a) 5. The address and telephone number of the department of
15 ~~agriculture, trade and consumer protection justice.~~

16 **SECTION 442m.** 344.576 (3) (c) of the statutes is amended to read:

17 344.576 (3) (c) The department of ~~agriculture, trade and consumer protection~~
18 ~~justice~~ shall promulgate rules specifying the form of the notice required under par.
19 (a), including the size of the paper and the type size and any highlighting of the
20 information described in par. (a). The rule may specify additional information that
21 must be included in the notice and the precise language that must be used.

22 **SECTION 442r.** 344.579 (2) (intro.) of the statutes is amended to read:

23 344.579 (2) ENFORCEMENT. (intro.) The department of ~~agriculture, trade and~~
24 ~~consumer protection justice~~ shall investigate violations of ss. 344.574, 344.576 (1),

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

3 **16.** Page 222, line 15: after that line insert:

4 “**SECTION 511bg.** 704.90 (9) of the statutes is amended to read:

5 704.90 (9) RULES. The department of ~~agriculture, trade and consumer~~
6 ~~protection~~ justice may promulgate rules necessary to carry out the purposes of this
7 section.

8 **SECTION 511br.** 704.90 (11) (title) of the statutes is amended to read:

9 704.90 (11) (title) DUTIES OF THE DEPARTMENT OF AGRICULTURE, TRADE AND
10 ~~CONSUMER PROTECTION~~ JUSTICE.

11 **SECTION 511bz.** 704.90 (11) (a) of the statutes is amended to read:

12 704.90 (11) (a) Except as provided in par. (c), the department of ~~agriculture,~~
13 ~~trade and consumer protection~~ justice shall investigate alleged violations of this
14 section and rules promulgated under sub. (9). To facilitate its investigations, the
15 department may subpoena persons and records and may enforce compliance with the
16 subpoenas as provided in s. 885.12.

17 **SECTION 511h.** 707.49 (4) of the statutes is amended to read:

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

1 department of ~~agriculture, trade and consumer protection~~ justice for the benefit of
2 aggrieved parties.

3 **SECTION 511k.** 707.57 (2) of the statutes is amended to read:

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

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

16 **SECTION 511p.** 707.57 (3) of the statutes is amended to read:

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

22 **17.** Page 223, line 13: after that line insert:

23 **“SECTION 516g.** 779.41 (1m) of the statutes is amended to read:

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

5 **SECTION 516n.** 779.93 (title) of the statutes is amended to read:

6 **779.93 (title) Duties of the department of agriculture, trade and**
7 **consumer protection justice.**

8 **SECTION 516p.** 779.93 (1) of the statutes is amended to read:

9 779.93 (1) The department of agriculture, trade and consumer protection
10 justice shall investigate violations of this subchapter and attempts to circumvent
11 this subchapter. The department of agriculture, trade and consumer protection
12 justice may subpoena persons and records to facilitate its investigations, and may
13 enforce compliance with such subpoenas as provided in s. 885.12.

14 **SECTION 516r.** 779.93 (2) (intro.) of the statutes is amended to read:

15 779.93 (2) (intro.) The department of agriculture, trade and consumer
16 protection justice may ~~in~~ on behalf of the state or ~~in~~ on behalf of any person who holds
17 a prepaid maintenance lien.”

18 **18.** Page 352, line 18: after that line insert:

19 “(4xv) TRANSFER OF CONSUMER PROTECTION FUNCTIONS.

20 (a) *Assets and liabilities.* All assets and liabilities of the department of
21 agriculture, trade and consumer protection that are primarily related to programs
22 or functions transferred to the department of justice under this act shall become the
23 assets and liabilities of the department of justice. The departments of justice and
24 agriculture, trade and consumer protection shall jointly determine these assets and

1 liabilities and shall jointly develop and implement a plan for their orderly transfer.
2 In the event of any disagreement between the departments, the secretary of
3 administration shall decide the question. If either department is dissatisfied with
4 the secretary's decision, the department may bring the matter to the cochairpersons
5 of the joint committee on finance for consideration by the committee, and the
6 committee shall affirm or modify the decision.

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

15 (c) *Employee status.* Employees transferred under paragraph (b) have all the
16 rights and same status under subchapter V of chapter 111 and chapter 230 of the
17 statutes in the department of justice that they enjoyed in the department of
18 agriculture, trade and consumer protection immediately before the transfer.
19 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
20 has attained permanent status in class is required to serve a probationary period.

21 (d) *Supplies and equipment.* All tangible personal property, including records,
22 of the department of agriculture, trade and consumer protection that are primarily
23 related to programs or functions that are transferred to the department of justice
24 under this act are transferred to the department of justice. The departments of
25 justice and agriculture, trade and consumer protection shall jointly identify the

1 tangible personal property, including records, and shall jointly develop and
2 implement a plan for their orderly transfer. In the event of any disagreement
3 between the departments, the secretary of administration shall decide the question.
4 If either department is dissatisfied with the secretary's decision, the department
5 may bring the matter to the cochairpersons of the joint committee on finance for
6 consideration by the committee, and the committee shall affirm or modify the
7 decision.

8 (e) *Pending matters.* Any matter pending with the department of agriculture,
9 trade and consumer protection that is primarily related to a program or function that
10 is transferred to the department of justice under this act is transferred to the
11 department of justice. All materials submitted or actions taken by the department
12 of agriculture, trade and consumer protection with respect to the pending matter are
13 considered as having been submitted to or taken by the department of justice.

14 (f) *Contracts.* All contracts entered into by the department of agriculture, trade
15 and consumer protection or the department of justice that are primarily related to
16 programs or functions transferred to the department of justice under this act, and
17 that are in effect on the effective date of this paragraph, remain in effect and those
18 contracts entered into by the department of agriculture, trade and consumer
19 protection are transferred to the department of justice. The departments of justice
20 and agriculture, trade and consumer protection shall jointly identify these contracts
21 and shall jointly develop and implement a plan for their orderly transfer. In the event
22 of any disagreement between the departments, the secretary of administration shall
23 decide the question. If either department is dissatisfied with the secretary's decision,
24 the department may bring the matter to the cochairpersons of the joint committee
25 on finance for consideration by the committee, and the committee shall affirm or

1 modify the decision. The department of justice shall carry out the obligations under
2 these contracts until the obligations are modified or rescinded by the department of
3 justice to the extent allowed under the contract.

4 (g) *Rules and orders.* All rules promulgated by the department of agriculture,
5 trade and consumer protection that are in effect on the effective date of this
6 paragraph and that are primarily related to programs or functions that are
7 transferred to the department of justice under this act remain in effect until their
8 specified expiration date or until amended or repealed by the department of justice.
9 All orders issued by the department of agriculture, trade and consumer protection
10 that are in effect on the effective date of this paragraph and that are primarily related
11 to programs or functions transferred to the department of justice under this act
12 remain in effect until their specified expiration date or until modified or rescinded
13 by the department of justice.

14 (h) *Decrease in positions.* The authorized FTE positions for the department of
15 agriculture, trade and consumer protection, funded from the appropriation under
16 section 20.115 (8) (jm), 1999 stats., are decreased by 5.5 PR positions.”.

17 **19.** Page 358, line 25: after that line insert:

18 “(2xz) INCREASE IN POSITIONS. The authorized FTE positions for the department
19 of justice, funded from the appropriation under section 20.455 (1) (j) of the statutes,
20 as created by this act, are increased by 5.5 PR positions.”.

21 **20.** Page 376, line 8; after that line insert:

22 “(14xz) CONSUMER PROTECTION TRANSFER.

23 (a) In the schedule under section 20.005 (3) of the statutes for the appropriation
24 to the department of agriculture, trade and consumer protection under section

1 20.115 (1) (a) of the statutes, as affected by the acts of 2001, the dollar amount is
2 decreased by \$2,292,100 for fiscal year 2002–03 to reflect the transfer of certain
3 consumer protection programs, functions, and enforcement activities to the
4 department of justice and to decrease the authorized FTE positions for the
5 department of agriculture, trade and consumer protection by 41.25 GPR positions
6 related to those consumer protection programs, functions, and enforcement
7 activities.

8 (b) In the schedule under section 20.005 (3) of the statutes for the appropriation
9 to the department of agriculture, trade and consumer protection under section
10 20.115 (8) (a) of the statutes, as affected by the acts of 2001, the dollar amount is
11 decreased by \$292,400 for fiscal year 2002–03 to reflect the transfer of certain
12 consumer protection programs, functions, and enforcement activities to the
13 department of justice and to decrease the authorized FTE positions for the
14 department of agriculture, trade and consumer protection by 2.5 GPR positions
15 related to those consumer protection programs, functions, and enforcement
16 activities.”.

17 **21.** Page 399, line 3: after that line insert:

18 “(10xo) CONSUMER PROTECTION TRANSFER. In the schedule under section 20.005
19 (3) of the statutes for the appropriation to the department of justice under section
20 20.455 (1) (a) of the statutes, as affected by the acts of 2001, the dollar amount is
21 increased by \$1,502,200 for fiscal year 2002–03 to reflect the transfer of certain
22 consumer protection programs, functions, and enforcement activities from the
23 department of agriculture, trade and consumer protection and to increase the

1 authorized FTE positions for the department of justice by 26.0 GPR positions related
2 to those consumer protection programs, functions, and enforcement activities.”.

3 **22.** Page 445, line 5: after that line insert:

4 “(1xo) CONSUMER PROTECTION TRANSFER. The treatment of sections 20.115 (1)
5 (hm) and (8) (jm), 20.455 (1) (title), (g), and (j), 93.07 (1), (23), and (24), 93.18 (3) and
6 (7), 93.20 (1), 93.22 (1) and (2), 100.07 (6), 100.171 (7) (b) (by SECTION 263bb) and (8)
7 (intro.), 100.173 (4) (intro.) and (a), 100.174 (5) (intro.) and (6), 100.175 (5) (a) (intro.)
8 and (b) and (7) (a) (intro.) and (b), 100.177 (1) (bm), 100.178 (1) (b), 100.18 (11) (a),
9 (b) 3., (c) 1., 2., 3., and 4., (d), and (e), 100.182 (5) (a) and (b), 100.20 (2) (a) and (b),
10 (3), (4), and (6), 100.201 (6) (d), (8m) (intro.), and (9) (b) and (c), 100.205 (7) and (8),
11 100.207 (6) (b) 1. and 2., (c), and (em) 1. and 2., 100.208 (2) (intro.) and (b), 100.209
12 (3) and (4) (b), 100.2095 (6) (b) and (c), 100.21 (2) (a) and (4) (a) (intro.), 100.22 (4) (b),
13 100.235 (11) (a), 100.26 (6), 100.261 (3) (b), (d), and (e), 100.263, 100.28 (4) (b) and
14 (c), 100.31 (4) and (5), 100.37 (1) (am), 100.38 (5) and (6), 100.41 (1) (bn), 100.42 (1)
15 (cm), 100.43 (1) (am), 100.44 (5), 100.46 (1) and (2), 100.50 (6) (b) and (c), 100.52 (1)
16 (bn), 101.175 (3) (intro.), 134.71 (12), 136.03 (title) and (1) (intro.), 136.04, 165.065
17 (2), 165.25 (4) (ar) and (11), 344.576 (3) (a) 5. and (c), 344.579 (2) (intro.), 704.90 (9)
18 and (11) (title) and (a), 707.49 (4), 707.57 (2) and (3), 779.41 (1m), and 779.93 (title),
19 (1), and (2) (intro.) of the statutes the renumbering and amendment of section
20 100.207 (1) of the statutes, the creation of section 100.207 (1) (a) of the statutes, and
21 SECTIONS 9104 (14xv) and 9131 (2xz) of this act take effect on July 1, 2002, or on the
22 day after publication, whichever is later.”.

23 (END)

Kite, Robin

From: Walker, William - DOA
Sent: Wednesday, January 29, 2003 12:38 PM
To: Kite, Robin
Subject: FW: DATCP Board CP Members

Importance: High

Minutia:

Of course, we have to be sure that the language can't be read to create a claim for Anderson and Brock. Though never confirmed, they were appointed at one point.

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

From: Walker, William - DOA
Sent: Wednesday, January 29, 2003 12:06 PM
To: Kite, Robin
Cc: Grinde, Kirsten
Subject: FW: DATCP Board CP Members
Importance: High

Robin:

I hear that Margaret Krome has been referring to herself as the consumer protection representative on the board.

Since the prior members have already been removed by Governor Doyle, please include language that allows individuals who are CP board members as of the date of the bill to finish their terms. That way Margaret won't have her membership challenged.

Unless Kirsten disagrees....

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

From: Kite, Robin
Sent: Wednesday, January 29, 2003 11:14 AM
To: Walker, William - DOA
Subject: RE: DATCP Board CP Members

Thanks, Bill.

Robin

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

From: Walker, William - DOA
Sent: Wednesday, January 29, 2003 11:14 AM
To: Kite, Robin
Subject: DATCP Board CP Members

Robin,

I think there are no CP members on the DATCP board.

I have asked DATCP and will let you know if I am wrong but please proceed as if there are no CP members.

The two CP members of the board, Beverly Anderson and Richard Brock, were never confirmed and were withdrawn by Governor Doyle.

Governor Doyle appointed the following, none of whom appear to be consumer representatives.

- Cindy Brown, Menomonie, marketing director of Chippewa Valley Bean & Doane Ltd.
- Enrique Figueroa, Milwaukee, director of the Roberto Hernandez Center at UW-Milwaukee
- Mike Krutza, Wausau, CEO of Farm Credit System (FCS) Financial Services
- Brian Rude, Coon Valley, director of external relations at Dairyland Power Cooperative and former state senator

- Andrew Diercks, Coloma, president and director of the Wisconsin Potato and Vegetable Growers Association and vice president of Coloma Farms, Inc.
- Margaret Krome, Madison, agricultural policy coordinator at the Michael Fields Agricultural Institute

[For my notes: the issue is whether to include language limiting or protecting the terms of incumbent CP board members.]

Bill Walker
State Budget Office
266-7973