

Fiscal Estimate - 2003 Session

Original Updated Corrected Supplemental

LRB Number 03-2509/1	Introduction Number AB-415
Subject Sale of motor fuel under the unfair sales act	
Fiscal Effect	
State:	
<input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
Local:	
<input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue 5. Types of Local Government Units Affected <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
Fund Sources Affected	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS 20.115(1)(r) Affected Ch. 20 Appropriations	
Agency/Prepared By DATCP/ Kevin LeRoy (608) 224-4928	Authorized Signature Barb Knapp (608) 224-4746
Date 7/21/2003	

Fiscal Estimate Narratives

DATCP 7/21/2003

LRB Number	03-2509/1	Introduction Number	AB-415	Estimate Type	Original
Subject					
Sale of motor fuel under the unfair sales act					

Assumptions Used in Arriving at Fiscal Estimate

Introduction:

The Unfair Sales Act prohibits sales of merchandise at a price that is less than the seller's "cost". For retail sales of motor vehicle fuel "cost" is defined to include: the average price charged by refiners at the nearest terminal, taxes, transportation and plus a markup of 9.18%. [Please note this description is highly simplified. For a more exact definition, please see s. 100.30(am)1m, Stats.] There are several exceptions granted in the law. The most commonly used exception in retail sales of motor vehicle fuel is the "meeting competition" exception. This allows sellers to sell at a price that is less than "cost" if doing so to meet the "existing price of a competitor". [Please see s. 100.30(2)(c), stats. for the definition.] Under current law, political boundaries are irrelevant to the meeting competition exception. This bill would require motor vehicle fuel retailers to ignore competitor's prices if that competitor happened to be outside of this state.

Analysis:

All neighboring states have considerably lower gasoline taxes. Wisconsin's Excise Tax (and Inspection Fee) is 31.5¢; whereas Illinois's is 26.8¢, Iowa's is 20.0¢, Minnesota's is 20.0¢ and Michigan's is 19.0¢. Wisconsin retailers have to choose between reducing the price of gasoline - and then hope to make up the difference with in-store sales; or maintaining a markup on gasoline - with the understanding that total sales volume will suffer. This bill would make the former of these two options illegal. We believe that this bill could eventually lead to closure of a considerable number of gas stations (most of which are small businesses) in places like Kenosha, Beloit, La Crosse, Hudson, Superior and Marinette.

Fiscal Effect:

We predict that this bill would result in higher enforcement costs for DATCP. Retailers who perceive that raising their prices would endanger the survival of their businesses will not eagerly comply with the law (as amended by this bill). This would result in an increase in the number of Unfair Sales Act investigations that require additional enforcement actions such as administrative special orders, and civil forfeitures. DATCP investigates alleged violations of the Unfair Sales Act based on complaints. In the last five years, DATCP has received 2,595 complaints involving the sale of motor vehicle fuel. Of these, 75 have resulted in some type of formal enforcement action such as administrative special orders or referral to district attorneys for civil forfeiture actions. We estimate that formal enforcement actions take roughly 25 hours of staff time (including Auditors, Supervisors and Attorneys) above and beyond informal enforcement actions such as warning letters. If the number of formal enforcement actions double, that would be an additional 375 hours of DATCP staff time per year. This would amount to roughly an additional \$11,000 annual costs for Unfair Sales Act enforcement.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2003 Session

Detailed Estimate of Annual Fiscal Effect

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Subject			
Sale of motor fuel under the unfair sales act			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):			
II. Annualized Costs:			
		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$11,000	
(FTE Position Changes)			
State Operations - Other Costs			
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category		\$11,000	\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S (20.115(1)(r))		11,000	
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
		Increased Rev	Decreased Rev
GPR Taxes		\$	\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues		\$	\$
NET ANNUALIZED FISCAL IMPACT			
		<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS		\$11,000	\$
NET CHANGE IN REVENUE		\$	\$
Agency/Prepared By		Authorized Signature	Date
DATCP/ Kevin LeRoy (608) 224-4928		Barb Knapp (608) 224-4746	7/21/2003