

1987 Assembly Bill 140

Date of enactment: **November 20, 1987**  
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## 1987 Wisconsin Act 95

AN ACT to create 134.85 of the statutes, relating to survivorship and guardianship rights to motor fuel dealerships.

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

SECTION 1. 134.85 of the statutes is created to read:

**134.85 Motor fuel dealerships; rights of survivorship.**

(1) DEFINITIONS. As used in this section:

- (a) "Dealer" has the meaning given under s. 135.02
- (2).
- (b) "Dealership" has the meaning given under s. 135.02 (3).

(c) "Designated family member" means the spouse or child of a motor fuel dealer who has been designated in the most recent motor fuel dealership agreement with the motor fuel grantor as the successor to ownership of the motor fuel dealership and who either inherits ownership of the motor fuel dealership by will or intestate succession or who, in the case of the legal incapacity of the dealer, is appointed by a court as guardian for the motor fuel dealership.

(d) "Grantor" has the meaning given under s. 135.02 (5).

(2) SURVIVORSHIP PROVISIONS REQUIRED. Every motor fuel dealership agreement entered into, renewed or extended on or after the effective date of this subsection .... [revisor inserts date], shall contain all of the following provisions:

(a) Any designated family member may succeed to the ownership of the motor fuel dealership if all of the following conditions are met:

1. The designated family member gives the motor fuel grantor written notice of the intention to succeed to ownership of the motor fuel dealership within 60 days after the motor fuel dealer's death or legal incapacity.

2. Upon request of the motor fuel grantor, the designated family member provides personal and financial information reasonably necessary to determine

under par. (b) whether the succession should be honored.

3. The designated family member agrees to be bound by all terms and conditions of the existing motor fuel dealership agreement.

4. There does not exist good cause under par. (b) for refusing to honor the succession.

(b) Good cause exists for refusing to honor a succession if a designated family member does not meet existing reasonable standards of the motor fuel grantor. The motor fuel grantor's existing reasonable standards may include requirements directly related to a person's management and technical skills, training and business experience, credit worthiness and other requirements directly related to a person's ability to operate the motor fuel dealership.

(c) If a motor fuel grantor believes in good faith, after requesting information under par. (a) 2, that good cause exists for refusing to honor succession of the motor fuel dealership by a designated family member, the motor fuel grantor may, within 90 days after receipt of the information, give notice complying with par. (d) to the designated family member.

(d) The notice under par. (c) shall be in writing and shall include all of the following:

1. A statement of the motor fuel grantor's refusal to honor succession and of the specific grounds constituting good cause for the refusal.

2. A statement of the motor fuel grantor's intent to terminate the existing motor fuel dealership agreement with the designated family member on a date not sooner than 90 days after the date the notice is given.

(e) Except as provided in par. (f), if the notice under par. (c) is not given within the time period specified in par. (c), the motor fuel grantor may not terminate the

existing motor fuel dealership agreement with the designated family member under this section and may only terminate the existing motor fuel dealership agreement as otherwise permitted by law.

(f) Notwithstanding pars. (b) to (d) and ss. 135.03 and 135.04, the motor fuel grantor may terminate the existing motor fuel dealership agreement with the designated family member if, in the 12 months following receipt of the notice under par. (a) 1, the volume of motor fuel sold by the motor fuel dealership is less than 90% of the average annual volume of motor fuel sold by the motor fuel dealership in the 3 years preceding receipt of the notice under par. (a) 1, and the motor fuel grantor, within 15 months following receipt of the notice under par. (a) 1, gives notice in writing to the designated family member which includes all of the following:

1. A statement of the motor fuel grantor's intent to terminate the existing motor fuel dealership agreement with the designated family member on a date not sooner than 90 days after the date the notice is given.

2. A statement of the specific reasons for termination.

(3) ENFORCEMENT. (a) The department of justice on behalf of the state or any person who claims injury as a result of a violation of this section may bring an action for temporary or permanent injunctive relief in any circuit court for any violation of this section. It is no defense to an action under this paragraph that an adequate remedy exists at law.

(b) In any proceeding to determine whether good cause exists under sub. (2) (b), a motor fuel grantor has the burden of proving that the designated family member does not meet the motor fuel grantor's existing, reasonable standards.

**SECTION 2. Program responsibility changes.** In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.251 (intro.)	none	134.85 (3)(a)