

Chapter Ag 112**GASOLINE, UNFAIR COMPETITION**

Ag 112.01 Rebates
Ag 112.02 Rental

Ag 112.03 Discrimination
Ag 112.04 Competition

Ag 112.01 Rebates. No wholesaler of gasoline who sells gasoline to retailers thereof shall pay to any such retailer a so-called "commission" which is in reality a rebate off the purchase price; no wholesaler of gasoline shall, by any other device of like effect, discriminate in the price at which such wholesaler sells gasoline to retailers thereof.

Ag 112.02 Rental. No wholesaler of gasoline who sells gasoline to retailers thereof shall pay to some retailers a so-called "rental" for certain premises upon which to operate a gasoline pump, when as a matter of fact the premises upon which such pump is to be operated are either the sidewalk or the street; no wholesaler of gasoline shall, by any other device of like effect, discriminate in the price at which such wholesaler sells gasoline to retailers thereof.

Ag 112.03 Discrimination. No wholesaler of gasoline shall enter into any agreement or arrangement whereby discrimination is made in the price at which said wholesaler sells gasoline to retailers thereof, where the effect of such discrimination may be to substantially lessen competition or to tend to create a monopoly in the marketing of gasoline in the community in which said wholesaler is thus selling at lower price; provided, that it shall be a justification for such a discrimination in price if the difference, made by said wholesaler in the price to the retailer to whom said wholesaler sells at the lower figure, is merely commensurate with an actual difference in the quality or quantity of gasoline sold to said retailer or in the transportation charges or other expense of marketing involved in the sale to said retailer.

Ag 112.04 Competition. Nothing herein shall affect the right of any wholesaler to sell gasoline to any retailer thereof at a price which is made in good faith and rendered necessary in order that said wholesaler may meet the price at which some competitor of said wholesaler is, at the time, selling gasoline to said retailer.

THE ABOVE RULES COMPRISING CHAPTER AG 112 ARE NOW IN EFFECT AND WILL REMAIN IN EFFECT UNTIL SEPTEMBER 1, 1972 WHEN THIS CHAPTER AG 112 WILL BE REPLACED BY THE NEW CHAPTER AG 112 PUBLISHED HERewith COMMENCING WITH PAGE 343.

Chapter Ag 112

MOTOR FUEL TRADE PRACTICES

Ag 112.01	Definitions	Ag 112.06	Special offers
Ag 112.02	Discrimination	Ag 112.07	Price signs
Ag 112.03	Coercion	Ag 112.08	Prohibited trade practices
Ag 112.04	Price posting		
Ag 112.05	Price logging		

History: 1-2-56: Chapter Ag 112 as it is in effect on August 31, 1972 was repealed and a new chapter Ag 112 was created, Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.01 Definitions. As used in this chapter and in Wis. Adm. Code chapter Ag 113, the following terms are defined as follows:

(1) "Retailer", "wholesaler", "sell at retail" and "sell at wholesale" shall have the same meanings as those terms have in section 100.30 (2), Wis. Stats.

(2) "Supplier" means a person who manufactures motor fuels or who is a controlled subsidiary of one who manufactures motor fuels and is engaged in the business of selling motor fuels to wholesalers, retailers or consumers.

(3) "Motor fuel" includes motor fuels and special fuels as defined in chapter 78, Wis. Stats.

(4) "Person" means any individual, sole proprietorship, partnership, corporation or other business entity or any individual acting on behalf of any individual, sole proprietorship, partnership, corporation or other business entity.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.02 Discrimination. (1) No supplier or wholesaler of motor fuel shall enter into any agreement or arrangement whereby directly or indirectly discrimination is made in the price at which said supplier or wholesaler sells motor fuel to wholesalers or retailers thereof, where the effect of such discrimination may be to substantially lessen competition or to tend to create a monopoly, or to injure, destroy or prevent competition with any person in the marketing of motor fuel in the community in which said supplier or wholesaler is thus selling at a lower price; provided, that it shall be a justification for such a discrimination in price if the difference, made by said supplier or wholesaler in the price to the wholesaler or retailer to whom said supplier or wholesaler sells at a lower figure, is merely commensurate with an actual difference in the quality or quantity of motor fuel sold to said wholesaler or retailer or in the transportation charges or other expenses of marketing involved in the sale to said wholesaler or retailer. Nothing herein contained shall prevent a seller from showing that his lower price was made in good faith to meet an equally low price of a competitor.

(2) No person any part of whose business is the sale of motor fuel to wholesalers shall sell motor fuel for ultimate consumption or use at a price lower than that at which he sells to such wholesaler unless such lower price is justified as provided in subsection (1).

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Register, May, 1972, No. 197

Ag 112.03 Coercion. No supplier or wholesaler shall threaten any of his customers with any price discrimination or use any form of coercion with the purpose or effect of changing or maintaining resale prices of such customer.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.04 Price posting. (1) Every wholesaler or retailer of motor fuel shall post in a conspicuous interior place easily accessible to the public at each location at which he sells such products a placard showing:

(a) The total selling price per gallon before any discounts of each grade of motor fuel sold at such location, including state and federal tax.

(b) The amount of state and federal tax per gallon.

(c) The amount per gallon of any discounts offered and the conditions upon which offered.

(d) When applicable, the cash redemptive value of trading stamps in relationship to the price per gallon or dollar basis as part of the sale.

(e) When applicable, a statement that merchandise is offered or given as part of the sale.

(f) The date and time the posted prices went into effect. Prices posted shall remain in effect not less than 24 hours.

(g) The amount of any discount or other price concession offered to any class of customers.

(2) Meters on pumps or other dispensing equipment shall be set to conform to the total selling price shown on the placard as required by paragraphs (a) and (b) of subsection (1). Any other advertising of price of motor fuel shall be at the total selling price as posted and shall be on a per gallon basis, provided, however, such advertising may, in addition, give details as to discounts and the monetary value of sales inducements.

(3) Prices shall be the same for the same grade of motor fuel at every pump or other dispensing outlet, except truck islands, self-service pumps or limited service pumps at any one location.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.05 Price logging. (1) Every supplier, wholesaler and retailer of motor fuel shall maintain a price log which records the price of each grade of motor fuel sold by him, together with the date and time of any price change. This log may be composed of copies of the posting placards required under section Ag 112.04. Records of such prices shall be retained at his principal place of business or other location conveniently accessible for 3 years and shall be made available upon request of the department.

(2) Any person required to maintain a price log under this section who intends to rely upon the defense of meeting competition, in the event of an alleged violation of the laws of the state or general or special orders of the department, shall include in his price log a reference to any evidence or documentation of such lower competitive price. Such evidence or documentation also shall be made available at the request of the department.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.06 Special offers. (1) No person shall advertise any reduction in the price of motor fuel or any inducement for the sale of

Register, May, 1972, No. 197

motor fuel as a temporary market entry device, a special promotion or a clearance, reduction or going out of business sale without indicating the period of time such sale or promotion will remain in effect.

(2) No person shall advertise the price of motor fuel as a special or temporary promotion if such price remains in effect for a period in excess of 30 days.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.07 Price signs. All printed or display advertising of the price of motor fuel at the location at which it is sold, except the placards required herein and the meters on pumps and other dispensing equipment, shall:

(1) Include the grade and total selling price per gallon for every grade of motor fuel available at that location and use the same size numbers for the price of each grade in such advertising. Lettering identifying grades shall be readily identifiable from the street.

(2) Indicate whether discounts or trading stamps are offered in connection with the sale of motor fuels. Lettering identifying discounts or trading stamps shall be readily identifiable from the street.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.

Ag 112.08 Prohibited trade practices. No person advertising, offering for sale or selling any motor fuel shall:

(1) Substitute an inferior grade of motor fuel for that ordered by a buyer without the buyer's consent.

(2) Represent to any buyer that his purchase will entitle him to refer other buyers to the seller, and that such referrals will entitle him to a commission, compensation or any other reward, or that he will be entitled to future purchases at special or reduced prices as a result of such referrals.

(3) Offer any gift or prize tied in with a sale without full and conspicuous disclosure of all terms of such offer, all conditions thereof and the expiration date of such offer, or fail to honor such offer. Advertise, offer to sell or give any item of merchandise or service in connection with the sale of motor fuel at a specific location unless such advertisement or offer states the price per gallon of motor fuel required to be purchased.

(4) Misrepresent that membership in an organization created by the seller will entitle a buyer to certain benefits, privileges or concessions not otherwise available to other buyers.

(5) Advertise or make claims for components, blending techniques or final quality of any motor fuel unless such person furnishes to the department upon request, factual data in support of such advertisements or claims.

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72.