



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

<b>2005 Assembly Bill 574</b>	<b>Assembly Amendment 1 and Senate Amendment 1</b>
<i>Memo published: March 3, 2006</i>	<i>Contact: Philip G. Cardis, Staff Attorney (267-0683) Mary Offerdahl, Staff Attorney (266-2230)</i>

**Assembly Bill 574** prohibits certain billing practices by sellers and lessors of consumer goods or services. The prohibited practices are:

1. Billing a person for consumer goods or services that the consumer has not agreed to purchase or lease.
2. Billing a consumer for consumer goods or services at a price that is higher than the price previously agreed upon, unless the consumer agrees to the higher price or is given the opportunity to cancel without penalty.
3. Billing a consumer for consumer goods under an agreement that is no longer in effect.
4. Offering a consumer free or reduced-price goods or services that commit the consumer to pay for other consumer goods or services, unless the seller discloses the commitment at or before the time the consumer agrees to purchase the goods or services.
5. Misrepresenting to a consumer that the consumer's failure to reject or return a delivery of consumer goods or services obligates the consumer to pay for the goods or services.

Under the bill, these prohibitions do not apply to the conduct of an agent or representative of a seller when providing billing services if the agent or representative did not know or have reason to know that its conduct violates the prohibitions. The bill also exempts certain contracts that are regulated under federal law. The bill's definition of consumer goods or services excludes health care, motor vehicles, and cable and satellite television service.

The bill specifically regulates lawn care service contracts. Lawn care services under the bill, consists of mowing service, trimming service, and the application of fertilizer, pesticides, or other additives. Under the bill, a contract for lawn care service may not be in effect for more than one year unless, in the subsequent years, the person selling the lawn care service makes a written or oral

disclosure to the consumer as to the type of service provided, the price and frequency of the service, and the right of the consumer to cancel the contract. The consumer has the right to cancel the contract at no cost to the consumer if the consumer does so within 30 days after receiving the written or oral disclosure.

The bill authorizes the Department of Agriculture, Trade and Consumer Protection to bring an action to enjoin persons from violating these laws governing billing practices and lawn care service contracts. Persons who violate these laws are also subject to civil forfeitures and criminal penalties. The bill allows an individual to bring a civil action for violation of these laws.

**Assembly Amendment 1** removes the provisions in the bill that specifically regulated lawn care service contracts.

**Senate Amendment 1** excludes from the definition of “consumer goods or services” services provided pursuant to an attorney-client relationship.

### **Legislative History**

On October 18, 2005, the Assembly Committee on Small Business recommended for adoption Assembly Amendment 1 by a vote of Ayes, 8; Noes, 0, and voted to recommend passage of the bill, as amended, by a vote of Ayes, 8; Noes, 0.

On February 22, 2006, the Senate Committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform introduced Senate Amendment 1, recommended Senate Amendment 1 for adoption, and recommended concurrence in Assembly Bill 574 as amended, with all three sections taken on votes of Ayes, 5; Noes, 0.

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