

Chapter ATCP 108

MOTOR FUEL TRADE PRACTICES

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Note: Chapter Ag 112 as it is in effect on August 31, 1972, was repealed and a new chapter Ag 112 was created, Register, May, 1972, No. 197, eff. 9-1-72. Chapter Ag 112 was renumbered chapter ATCP 108 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

Note: This chapter is adopted under authority of s. 100.20 (2), Stats., and is administered by the Wisconsin department of agriculture, trade and consumer protection. Violations of this chapter may be prosecuted under s. 100.20 (6), 100.26 (3) or (6), Stats. A person who suffers a monetary loss because of a violation of this chapter may sue the violator directly under s. 100.20 (5), Stats., and may recover twice the amount of the loss, together with costs and reasonable attorneys' fees.

ATCP 108.01 Definitions. As used in this chapter and in ch. ATCP 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 s. 100.30 (2), 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 ch. 78, 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.

ATCP 108.02 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 the 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 or she sells to such wholesaler unless such lower price is justified as provided in sub. (1).

History: Cr. Register, May, 1972, No. 197, eff. 9-1-72; corrections made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1993, No. 448.

ATCP 108.03 Coercion. No supplier or wholesaler shall threaten any of his or her 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; correction made under s. 13.93 (2m) (b) 5, Stats., Register, April, 1993, No. 448.