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**ASSEMBLY AMENDMENT 34,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1995 ASSEMBLY BILL 150**

June 21, 1995 – Offered by Representatives WOOD, HUBER and KRUSICK.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 50, line 5: delete lines 5 to 13.

3 **2.** Page 173, line 9: decrease the dollar amount for fiscal year 1996–97 by
\$2,204,100 for the purpose of decreasing the authorized FTE positions for the
department of agriculture, trade and consumer protection by 43.8 GPR positions on
July 1, 1996, for the performance of consumer protection investigation and
enforcement functions, and adjust the net appropriation totals accordingly.

4 **3.** Page 174, line 1: decrease the dollar amount for fiscal year 1996–97 by
\$94,200 to decrease funding for unfair sales act enforcement functions being
transferred to the department of justice.

5 **4.** Page 283, line 3: increase the dollar amount for fiscal year 1996–97 by
\$1,687,078 for the purpose of increasing the authorized FTE positions for the
department of justice by 32.6 GPR positions on July 1, 1996, for the performance of
consumer protection investigation and enforcement functions.

1 100.18 (11) (c) 1. Whenever the department of justice has reason to believe that
2 a person is in possession, custody or control of any information or documentary
3 material relevant to the enforcement of this section it may require that person to
4 submit a statement or report, under oath or otherwise, as to the facts and
5 circumstances concerning any activity in the course of trade or commerce; examine
6 under oath that person with respect to any activity in the course of trade or
7 commerce; and execute in writing and cause to be served upon such person a civil
8 investigative demand requiring the person to produce any relevant documentary
9 material for inspection and copying.

10 **SECTION 3601k.** 100.18 (11) (c) 2. of the statutes is amended to read:

11 100.18 (11) (c) 2. The department of justice, in exercising powers under this
12 subsection, may issue subpoenas, administer oaths and conduct hearings to aid in
13 any investigation.

14 **SECTION 3601L.** 100.18 (11) (c) 3. of the statutes is amended to read:

15 100.18 (11) (c) 3. Service of any notice by the department of justice requiring
16 a person to file a statement or report, or service of a subpoena upon a person, or
17 service of a civil investigative demand shall be made in compliance with the rules of
18 civil procedure of this state.

19 **SECTION 3601mm.** 100.18 (11) (c) 4. of the statutes is amended to read:

20 100.18 (11) (c) 4. If a person fails to file any statement or report, or fails to
21 comply with any civil investigative demand, or fails to obey any subpoena issued by
22 the department of justice, such person may be coerced as provided in s. 885.12, except
23 that no person shall be required to furnish any testimony or evidence under this
24 subsection which might tend to incriminate the person.

25 **SECTION 3601n.** 100.18 (11) (d) of the statutes is amended to read:

1 100.18 (11) (d) ~~The department or the~~ department of justice or any district
2 attorney, upon informing the department of justice, may commence an action in
3 circuit court in the name of the state to restrain by temporary or permanent
4 injunction any violation of this section. The court may in its discretion, prior to entry
5 of final judgment, make such orders or judgments as may be necessary to restore to
6 any person any pecuniary loss suffered because of the acts or practices involved in
7 the action, provided proof thereof is submitted to the satisfaction of the court. The
8 department of justice may subpoena persons, and require the production of books
9 and other documents, ~~and may request the department to exercise its authority~~
10 ~~under par. (e) to aid in the investigation of alleged violations of this section.~~

11 **SECTION 3601nm.** 100.18 (11) (e) of the statutes is amended to read:

12 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
13 section, ~~the department or the~~ department of justice may accept a written assurance
14 of discontinuance of any act or practice alleged to be a violation of this section from
15 the person who has engaged in such act or practice. The acceptance of such assurance
16 by ~~either the department or the~~ department of justice shall be deemed acceptance by
17 the other state officials enumerated in par. (d) if the terms of the assurance so
18 provide. An assurance entered into pursuant to this section shall not be considered
19 evidence of a violation of this section, provided that violation of such an assurance
20 shall be treated as a violation of this section, and shall be subjected to all the
21 penalties and remedies provided therefor.”.

22 **10.** [Page 1222, line 6](#): delete lines 6 to 22.

23 **11.** [Page 1222, line 22](#): after that line insert:

24 **“SECTION 3601u.** 100.20 (2) of the statutes is amended to read:

1 100.20 (2) The department of justice, after public hearing, may issue general
2 orders forbidding methods of competition in business or trade practices in business
3 which are determined by the department of justice to be unfair. The department of
4 justice, after public hearing, may issue general orders prescribing methods of
5 competition in business or trade practices in business which are determined by the
6 department of justice to be fair.

7 **SECTION 3601v.** 100.20 (3) of the statutes is amended to read:

8 100.20 (3) The department of justice, after public hearing, may issue a special
9 order against any person, enjoining such person from employing any method of
10 competition in business or trade practice in business which is determined by the
11 department of justice to be unfair or from providing service in violation of sub. (1t).
12 The department of justice, after public hearing, may issue a special order against any
13 person, requiring such person to employ the method of competition in business or
14 trade practice in business which is determined by the department of justice to be fair.

15 **SECTION 3601w.** 100.20 (4) of the statutes is repealed.

16 **SECTION 3601x.** 100.20 (6) of the statutes is amended to read:

17 100.20 (6) The department of justice may commence an action in circuit court
18 in the name of the state to restrain by temporary or permanent injunction the
19 violation of any order issued under this section. The court may in its discretion, prior
20 to entry of final judgment make such orders or judgments as may be necessary to
21 restore to any person any pecuniary loss suffered because of the acts or practices
22 involved in the action, provided proof thereof is submitted to the satisfaction of the
23 court. The department of justice may use its authority in ~~ss. 93.14 and 93.15 to~~
24 investigate violations of any order issued under this section.”.

1 **12.** Page 1228, line 4: before that line insert:

2 “**SECTION 3608s.** 100.30 (4) of the statutes is amended to read:

3 100.30 (4) PENALTIES. For any violation of sub. (3), the department of justice
4 or a district attorney may commence an action on behalf of the state to recover a
5 forfeiture of not less than \$50 nor more than \$500 for the first violation and not less
6 than \$200 nor more than \$2,500 for each subsequent violation.

7 **SECTION 3608t.** 100.30 (5) (a) of the statutes is amended to read:

8 100.30 (5) (a) The department of justice may issue a special order ~~as provided~~
9 ~~in s. 93.18~~ against a retailer or wholesaler requiring the retailer or wholesaler to
10 cease and desist from violating this section in the sale of cigarettes or other tobacco
11 products, fermented malt beverages, intoxicating liquor or wine or motor vehicle
12 fuel. The department of justice or a district attorney may commence an action on
13 behalf of the state against a retailer or wholesaler who violates a special order issued
14 under this paragraph to recover a forfeiture of not less than \$200 nor more than
15 \$5,000 for each violation.

16 **SECTION 3608u.** 100.30 (5) (b) of the statutes is amended to read:

17 100.30 (5) (b) The department of justice or a district attorney may bring an
18 action to enjoin a violation of this section without being compelled to allege or prove
19 that an adequate remedy at law does not exist. An action under this paragraph may
20 be commenced and prosecuted by the department of justice or a district attorney, in
21 the name of the state, in a circuit court in the county where the offense occurred or
22 in Dane county, notwithstanding s. 801.50.”.

23 **13.** Page 1228, line 4: delete lines 4 to 7.

24 **14.** Page 1424, line 7: before that line insert:

1 “**SECTION 4148x.** 136.04 (2) of the statutes is amended to read:

2 136.04 (2) The department of agriculture, ~~trade and consumer protection~~
3 justice after public hearing may issue general or special orders to carry out the
4 purposes of this chapter and to determine and prohibit unfair trade practices in
5 business or unfair methods of competition in business pursuant to s. 100.20 (2) ~~to (4)~~
6 and (3).”.

7 **15.** Page 2266, line 14: before that line insert:

8 “(6x) TRANSFER OF CONSUMER PROTECTION FUNCTION.

9 (a) *Assets and liabilities.* On the effective date of this paragraph, all assets and
10 liabilities of the department of agriculture, trade and consumer protection primarily
11 related to its consumer protection investigation and enforcement functions under
12 sections 100.18, 100.20 and 100.30 of the statutes shall become the assets and
13 liabilities of the department of justice. The departments of justice and agriculture,
14 trade and consumer protection shall jointly determine these assets and liabilities
15 and shall jointly develop and implement a plan for the orderly transfer thereof. In
16 the event of any disagreement between the departments, the secretary of
17 administration shall decide the question.

18 (b) *Employe transfers.* All incumbents holding positions in the department of
19 agriculture, trade and consumer protection that are primarily related to its
20 consumer protection investigation and enforcement functions under sections 100.18,
21 100.20 and 100.30 of the statutes, as determined by the secretary of administration,
22 are transferred on the effective date of this paragraph to the department of justice.

23 (c) *Employe status.* Employes transferred under paragraph (b) have all the
24 rights and the same status under subchapter V of chapter 111 and chapter 230 of the

1 statutes in the department of justice that they enjoyed in the department of
2 agriculture, trade and consumer protection immediately before the transfer.
3 Notwithstanding section 230.28 (4) of the statutes, no employe so transferred who
4 has attained permanent status in class is required to serve a probationary period.

5 (d) *Supplies and equipment.* On the effective date of this paragraph, all
6 tangible personal property, including records, of the department of agriculture, trade
7 and consumer protection primarily related to its consumer protection investigation
8 and enforcement functions under sections 100.18, 100.20 and 100.30 of the statutes
9 are transferred to the department of justice. The departments of justice and
10 agriculture, trade and consumer protection shall jointly identify the tangible
11 personal property, including records, and shall jointly develop and implement a plan
12 for the orderly transfer thereof. In the event of any disagreement between the
13 departments, the secretary of administration shall decide the question.

14 (e) *Pending matters.* Any matter pending with the department of agriculture,
15 trade and consumer protection on the effective date of this paragraph that is
16 primarily related to its consumer protection investigation and enforcement
17 functions under sections 100.18, 100.20 and 100.30 of the statutes is transferred to
18 the department of justice. All materials submitted or actions taken by the
19 department of agriculture, trade and consumer protection with respect to the
20 pending matter are considered as having been submitted to or taken by the
21 department of justice.

22 (f) *Contracts.* All contracts entered into by the department of agriculture,
23 trade and consumer protection in effect on the effective date of this paragraph that
24 are primarily related to its consumer protection investigation and enforcement
25 functions under sections 100.18, 100.20 and 100.30 of the statutes remain in effect

1 and are transferred to the department of justice. The departments of justice and
2 agriculture, trade and consumer protection shall jointly identify these contracts and
3 shall jointly develop and implement a plan for the orderly transfer thereof. In the
4 event of any disagreement between the departments, the secretary of administration
5 shall decide the question. The department of justice shall carry out any such
6 contractual obligations until modified or rescinded by the department of justice to
7 the extent allowed under the contract.

8 (g) *Rules and orders.* All rules promulgated by the department of agriculture,
9 trade and consumer protection that are in effect on the effective date of this
10 paragraph and that are primarily related to its consumer protection investigation
11 and enforcement functions under sections 100.18, 100.20 and 100.30 of the statutes
12 remain in effect until their specified expiration date or until amended or repealed by
13 the department of justice. All orders issued by the department of agriculture, trade
14 and consumer protection that are in effect on the effective date of this paragraph and
15 that are primarily related to its consumer protection investigation and enforcement
16 functions under sections 100.18, 100.20 and 100.30 of the statutes remain in effect
17 until their specified expiration date or until modified or rescinded by the department
18 of justice.”.

19 **16.** Page 2455, line 16: after that line insert:

20 “(6x) TRANSFER OF CERTAIN CONSUMER PROTECTION FUNCTIONS. The treatment of
21 sections 100.18 (11) (a), (b) 1., (c) 1., 2., 3. and 4., (d) and (e), 100.20 (2), (3), (4) and
22 (6), 100.30 (4) and (5) (a) and (b) and 136.04 (2) of the statutes, the renumbering of

1 section 20.115 (1) (r) of the statutes and SECTION 9104 (6x) of this act take effect on
2 July 1, 1996.”.

3 (END)