



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3653/1
MCP:amn

2017 SENATE BILL 440

October 9, 2017 - Introduced by Senators COWLES, OLSEN, MARKLEIN, BEWLEY and FEYEN, cosponsored by Representatives SWEARINGEN, R. BROOKS, SPREITZER, CONSIDINE, MURSAU, MEYERS, VRUWINK, E. BROOKS, STEFFEN, GENRICH, SHANKLAND and NYGREN. Referred to Committee on Natural Resources and Energy.

1 **AN ACT** *to amend* 100.26 (1); and *to create* 100.70 of the statutes; **relating to:**
2 authorizing the Wisconsin Propane Education and Research Council to levy an
3 assessment.

Analysis by the Legislative Reference Bureau

This bill allows the Wisconsin Propane Education and Research Council to levy an assessment on odorized propane against certain licensed propane retailers.

The bill requires the Wisconsin Propane Gas Association to conduct a referendum among its retailer members on the question of whether to allow the council to levy an assessment on odorized propane. The bill defines a “retailer” as a person who sells propane at retail to the ultimate consumer and who is licensed to do so by the Department of Safety and Professional Services. If approved in the referendum, the council has the authority to levy an initial annual assessment amount of no more than two-tenths of one cent per gallon of odorized propane sold in this state. After the initial assessment, the council is required to set annual assessments in an amount sufficient to cover the costs of programs developed by the council, but the assessment amount may not be raised by more than one-twentieth of one cent per gallon of odorized propane annually unless approved in a referendum among retailer members of the Wisconsin Propane Gas Association and approved by the council’s board of directors.

Under the bill, the owner of propane immediately prior to its odorization or the owner of odorized propane at the time of its import into this state is responsible for collecting the assessments from retailers who purchase the odorized propane for use

SENATE BILL 440

in this state. The owner is required to remit the collected assessments to the council on a monthly basis or be subject to an interest penalty on any amount that is not timely remitted. The bill also allows the council to establish an alternative means of collecting assessments.

The bill provides that a propane purchaser who pays an assessment may secure a refund by submitting a written refund application to the council with proof of the assessment that was charged. A purchaser who obtains a refund is not eligible for any benefits provided under the council's programs.

The bill also allows the council to bring an action in circuit court to compel the remittance of collected assessments and allows the council to recover its costs and disbursements, including reasonable attorney fees, for bringing the action.

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

1 **SECTION 1.** 100.26 (1) of the statutes is amended to read:

2 100.26 (1) Any person who violates any provision of this chapter, except s.
3 100.18, 100.20, 100.206 ~~or~~, 100.51, or 100.70, for which no specific penalty is
4 prescribed shall be fined not to exceed \$200, or imprisoned in the county jail not more
5 than 6 months or both.

6 **SECTION 2.** 100.70 of the statutes is created to read:

7 **100.70 Propane Education and Research Council. (1) DEFINITIONS.** In
8 this section:

9 (a) "Council" means the organization with the name "Wisconsin Propane
10 Education and Research Council" that is designated as a nonprofit corporation under
11 section 501 (c) (3) of the Internal Revenue Code.

12 (b) "Retailer" means a person who sells propane at retail to the ultimate
13 consumer and is licensed under s. 101.16 (3g) (a).

14 **(2) REFERENDUM; AUTHORITY TO LEVY ASSESSMENT.** No later than 120 days after
15 the effective date of this subsection [LRB inserts date], the Wisconsin Propane
16 Gas Association shall conduct, at its own expense, a referendum among its members

SENATE BILL 440

1 who are retailers on the question of whether to allow the council to levy the
2 assessment described under sub. (3). Each member who is a retailer shall be entitled
3 to one vote in the referendum. Upon approval of a majority of the members voting
4 in the referendum, the council shall be authorized to levy an assessment on odorized
5 propane as provided under sub. (3).

6 **(3) ASSESSMENT.** (a) The council shall set the initial annual assessment at no
7 greater than two-tenths of one cent per gallon of odorized propane sold in this state.
8 After the initial assessment, the council shall set annual assessments sufficient to
9 cover the costs of the plans and programs developed by the council. An assessment
10 may not be raised by more than one-twentieth of one cent per gallon of odorized
11 propane annually unless approved by a majority of those voting in a referendum
12 among members of the Wisconsin Propane Gas Association who are retailers and by
13 the board of directors of the council.

14 (b) The owner of propane immediately prior to its odorization or the owner of
15 odorized propane at the time of its import into this state shall collect assessments
16 from purchasers of the odorized propane who are retailers. The owner shall calculate
17 the amount of the assessment based on the volume of odorized propane it sells for use
18 in this state. The assessment shall be listed as a separate line item on the bill of sale
19 for the odorized propane and titled "Wisconsin propane education and research
20 assessment." The owner shall remit the collected assessments to the council on a
21 monthly basis by the 25th day of the month following the month the assessment was
22 collected. If the owner does not remit the collected assessments as required under
23 this paragraph, an interest penalty of 1 percent of any amount that is not remitted
24 shall be imposed against the owner for each month or fraction of a month after the
25 due date, until final payment is made. The council may establish an alternative

SENATE BILL 440**SECTION 2**

1 means of collecting assessments if the council determines that another method
2 would be more efficient or effective and may establish an alternative late payment
3 charge or interest penalty to be imposed on a person who fails to timely remit any
4 collected assessments to the council.

5 (4) REFUNDS. A purchaser of propane who has an assessment added as a line
6 item to the sale price may secure a refund of the amount added by submitting a
7 written application to the council with proof of the assessments charged. A
8 purchaser who obtains a refund is not eligible for any benefits provided under the
9 council's programs.

10 (5) COMPLIANCE. The council may bring an action in any circuit court of this
11 state to compel compliance with sub. (3) (b). Notwithstanding s. 814.04, the council,
12 if successful in its action, shall be entitled to recover its costs and disbursements,
13 including reasonable attorney fees.

14 (END)