



Wisconsin's Unfair Sales Act

Message: The Unfair Sales Act protects consumers by protecting competition. The ability of larger companies to sell motor fuel below cost threatens the viability of independent and family-owned businesses as competition is eliminated. ***The loss of local business equates to the loss of local jobs.*** Currently our industry operates 3,000 stations and supports 50,000 jobs statewide.

Background: For over 70 years, the Unfair Sales Act has promoted competition among businesses by prohibiting unfair marketing practices. The law does not allow products to be sold below cost in an attempt to reduce or eliminate competition. The law does not guarantee any retailer a profit, but it does establish a level playing field for all businesses to fairly compete.

Issue: Wisconsin's petroleum marketers are fiercely competitive, surviving on slim margins to provide quality products and services to consumers. Gas prices in Wisconsin reflect the cost of crude oil and closely track the national average price of gas. A repeal of the law may result in a loss of businesses and jobs all around Wisconsin.

- The Unfair Sales Act keeps jobs in Wisconsin. The law has been the rule for generations of family businesses, allowing them to hire and expand in their local communities. Studies show the total number of gasoline outlets is greater in states with fair marketing laws that do not allow for products to be sold below cost.
- Wisconsin rarely deviates by more than a few cents per gallon from the national average gas price. Wisconsin stations consistently operate on smaller margins than stations in other states.
- Minnesota repealed their version of the Unfair Sales Act in 1995 and saw a rise in gas prices. The law was reinstated in 2001.
- Higher courts have found the law constitutional 11 times. The most recent case, *Flying J vs DATCP* was decided by the 7th Circuit Court of Appeals in September 2010. Wisconsin's law was once again found clearly constitutional and the court found there to be no collusion among gasoline retailers.
- Opponents claim federal antitrust provisions already protect smaller businesses, making the law unnecessary. However these types of cases often cost hundreds of thousands of dollars and take many years to litigate, making the process inaccessible to small businesses.

Action Requested: Please support Wisconsin's Unfair Sales Act. Please **OPPOSE** any effort to modify or weaken this important law.