



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-4297/1
MCP:cdc

2019 ASSEMBLY BILL 665

December 5, 2019 - Introduced by Representatives PETERSEN, CONSIDINE, BORN, NOVAK, SWEARINGEN, TUSLER, SHANKLAND, B. MEYERS, TAUCHEN, SPREITZER and KUGLITSCH, cosponsored by Senators PETROWSKI, OLSEN, WANGGAARD and BEWLEY. Referred to Committee on Energy and Utilities.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to amend* 100.26 (1); and *to create* 100.90 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 for use 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

ASSEMBLY BILL 665

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 100.90, 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.** 100.90 of the statutes is created to read:

7 **100.90 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) "Distributor" means a person whose primary business is the sale of liquefied
13 petroleum gas to a retailer and who owns the gas immediately prior to its odorization
14 or who owns the gas at the time of its import into this state.

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

ASSEMBLY BILL 665

1 **(2) REFERENDUM; AUTHORITY TO LEVY ASSESSMENT.** No later than 120 days after
2 the effective date of this subsection [LRB inserts date], the Wisconsin Propane
3 Gas Association shall conduct, at its own expense, a referendum among its members
4 who are retailers on the question of whether to allow the council to levy the
5 assessment described under sub. (3). Each member who is a retailer shall be entitled
6 to one vote in the referendum. Upon approval of a majority of the members voting
7 in the referendum, the council shall be authorized to levy an assessment on odorized
8 propane as provided under sub. (3).

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

17 (b) A distributor shall collect assessments from purchasers of the odorized
18 propane who are retailers. The distributor shall calculate the amount of the
19 assessment based on the volume of odorized propane it sells for use in this state. The
20 assessment shall be listed as a separate line item on the distributor's bill of sale to
21 the retailer for the odorized propane and titled "Wisconsin propane education and
22 research assessment." The distributor shall remit the collected assessments to the
23 council on a monthly basis by the 25th day of the month following the month the
24 assessment was collected. If the distributor does not remit the collected assessments
25 as required under this paragraph, an interest penalty of 1 percent of any amount that

ASSEMBLY BILL 665**SECTION 2**

1 is not remitted shall be imposed against the distributor for each month or fraction
2 of a month after the due date, until final payment is made. The council may establish
3 an alternative means of collecting assessments if the council determines that
4 another method would be more efficient or effective and may establish an alternative
5 late payment charge or interest penalty to be imposed on a person who fails to timely
6 remit any collected assessments to the council.

7 **(4) REFUNDS.** A retailer who purchases propane who has an assessment added
8 as a line item to the sale price may secure a refund of the amount added by submitting
9 a written application to the council with proof of the assessments charged no later
10 than 30 days after the end of the month for which the refund is requested. The
11 council shall provide an approved refund to a retailer within 60 days of receiving the
12 refund request. A purchaser who obtains a refund is not eligible for any benefits
13 provided under the council's programs.

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

18 **(6) USE OF ASSESSMENTS.** No funds collected as an assessment under this section
19 may be used for the purpose of lobbying, lobbyist pay, or political messaging.

20 **(7) ANNUAL NOTICE.** The council shall annually notify each retailer of any
21 assessment authorized under this section and the manner of requesting a refund
22 under sub. (3).

23 **(END)**