



TERRY KATSMAS

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Date: February 2, 2016
To: Assembly Committee on Consumer Protection
From: Representative Terry Katsma
Re: Assembly Bill 760: reimbursement of DATCP investigative costs

Dear Chairman Krug and Committee Members,

Thank you for convening a public hearing on Assembly Bill (AB) 760, a bill that helps ensure that taxpayers do not have to foot the bill for criminal wrongdoing.

The Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for investigating and prosecuting many of the consumer protection-related laws that the agency administers. For *some* types of violations—such as violations of Chapter 100, related to marketing and trade practices—statute already permits a court to order a defendant to reimburse DATCP (and, by extension, reimburse taxpayers) for costs associated with an investigation and prosecution if that person is found guilty by the court or settles the case out of court via a negotiated civil forfeiture.

However, statute has not kept up with the times; today, DATCP is also responsible for investigating and prosecuting violations of other chapters of the statute—including chapters that regulate entities such as future service plans, rental vehicles, self-service storage facilities, timeshares and foreclosure consultants. AB 760 would allow courts to order proven violators of these additional statutes to reimburse DATCP for costs associated with an investigation and prosecution.

It is much more appropriate for guilty parties, rather than honest taxpayers, to pay for enforcing the law. I urge you to support AB 760 and give courts greater discretion to allow the state to recoup costs associated with the matters it is charged with investigating.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

February 2, 2016

TESTIMONY ON ASSEMBLY BILL 760

Thank you to Chairman Krug and the Assembly Committee on Consumer Protection for the opportunity to testify on Assembly Bill 760 relating to reimbursement of costs for certain enforcement actions by the Department of Agriculture, Trade and Consumer Protection (DATCP)

Under current law, DATCP is only able to be reimbursed for investigative costs for some consumer protection laws that they administer—such as DATCP Chapter 100 laws related to marketing and trade practices.

This bill expands the type of enforcement actions in which a court may order a defendant to reimburse DATCP for costs incurred in preparing and prosecuting the case. The bill includes actions relating to future service plans, rental vehicles, self-service storage facilities, time shares, and foreclosure consultants. The defendant would only reimburse the state for investigative costs if he or she settles the case with a negotiated civil forfeiture or is found guilty by the courts.

This bill would allow the courts to require proven violators of the law to cover these costs, as opposed to passing the costs onto taxpayers. DATCP has reported that they have had several cases recently involving timeshares that have consumed hundreds of hours of investigative time and thousands of dollars in staff resources.

An example provided by DATCP involved a recent investigation of a timeshare. If the issue had gone to a court-filed settlement, the agency would have been able to recover the 70.75 investigative hours, or over \$2,600. A similar case being worked on by the agency is currently at 58.75 hours of investigative time, or over \$2,100 and counting.

This legislation would give DATCP the flexibility to seek the costs incurred from an investigation. When the defendant has been found guilty, they should reimburse the state for the taxpayer resources that were used during the investigation of the crime.



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

Assembly Committee on Consumer Protection
2015 AB 760
Frank Frassetto, Administrator
Division of Trade and Consumer Protection
February 2, 2016

I am testifying in support of AB 760 -- relating to: reimbursement of costs for certain enforcement actions by the Department of Agriculture, Trade and Consumer Protection.

Current Situation

- A court can order a defendant to reimburse DATCP for its costs incurred investigating violations of Wis. Stat. Ch. 100, which governs marketing and trade practices.
- DATCP asked for this bill to expand the category of enforcement actions in which a court can order a defendant to reimburse the Department.

AB 760 expands the types of enforcement actions that are eligible for cost reimbursement

- This bill would amend Wis. Stat. 93.20(1) to add timeshares, future service plans, rental cars, regulation of foreclosure consultants, and self-service storage facilities to the list of laws for which the department may seek reimbursement for investigation costs.
- This change is narrowly tailored since the Department will only seek investigation costs for matters that it is authorized to investigate.

Impact on DATCP

- Since the bill does not create any new areas of enforcement, the actual workload for DATCP staff would not change. Instead, the Department would have a mechanism to collect money for work it already does and will continue to do.
- This legislation would allow the agency to recover costs more equitably from those individuals and/or businesses that violate the laws administered by DATCP. Either they could settle their case with a negotiated civil forfeiture, or the matter could be prosecuted for a finding of guilt by the courts. Either way, the money spent to investigate the violations would be paid for by and recovered from the violator through the courts.
- If the agency is able to recover investigative costs across all case types, as opposed to just some of the cases, more of the agency's funding and budget could be put towards investigative resources and technologies. In addition, this legislation passes the investigation costs onto proven violators and wrongdoers, as opposed to having taxpayers absorb the costs.

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- DATCP has had several cases recently that consumed hundreds of hours of investigative time and thousands of dollars in staff resources. For example: In a past investigation, if the issue had gone to a court filed settlement under Wis. Stat. Ch. 707, violations governing timeshares, the agency would have been able to recover the 70.75 investigative hours, worth over \$2,600. A similar case currently being worked on by our agency is at 102.75 hours of investigative time or close to \$4,000. More investigative hours will be put into that case.
- Finally, passage of this bill will enable the agency to dedicate recaptured funding towards prevention efforts related to scams against the elderly, identity theft, and consumer fraud and education of businesses. These monies could be dedicated to educational materials, informational presentations, and the use of advanced technologies to reach more consumers and advance the agency's consumer protection mission.