

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/07/2002**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7597**

By/Representing: **Mawdsley**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - electron com**

Extra Copies: **MGG  
RNK**

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Mawdsley -

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**Topic:**

Electronic mail solicitations and information obtained from Internet web site users

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 01/07/2002	jdyer 01/07/2002		_____			
/1			pgreensl 01/07/2002	_____	lrb_docadmin 01/07/2002		
/2	kunkemd 01/17/2002	hhagen 01/17/2002	pgreensl 01/17/2002	_____	lrb_docadmin 01/17/2002		
/3	kunkemd 01/29/2002	jdyer 01/29/2002	haugeca 01/29/2002	_____	lrb_docadmin 01/29/2002		

FE Sent For:

<END>

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/1			pgreensl 01/07/2002	_____	lrb_docadmin 01/07/2002		
/2	kunkemd 01/17/2002	hhagen 01/17/2002	pgreensl 01/17/2002	_____	lrb_docadmin 01/17/2002		

*3 1/2 jkd*  
*Ch 1-20-02*  
*Ch 1/16-02*

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/?	kunkemd	1/1 kjed	1/2 ps	1/2 ps/tdh			

FE Sent For:

<END>

**CORRESPONDENCE MEMORANDUM**STATE OF WISCONSIN  
Department of Administration

**Date:** January 2, 2002

**To:** Steve Miller  
Chief, Legislative Reference Bureau

**From:** Kate Mawdsley  
ECR Team, State Budget Office

**Subject:** 2001-03 Budget Adjustment Bill Drafting Request

The following is a drafting request for the 2001-03 budget adjustment bill. If you have any questions, please contact me at 266-7597 or [kathryn.mawdsley@doa.state.wi.us](mailto:kathryn.mawdsley@doa.state.wi.us).

The intent of this request is to include portions of LRB-0107 in the budget adjustment bill. Please include the electronic mail prohibition and web site requirement sections, which prohibit certain types of electronic mail messages and create requirements regarding certain information that is obtained by persons maintaining web sites on the Internet. Please exclude the sales tax exemption section, which would create a sales tax and use tax exemption for Internet access services.

**E-Commerce**  
DATCP  
Agency #115

2001 - 2002 LEGISLATURE

Admin - Budget

LRB-0107/1  
MDK&JK/nmh&jld/km

Stays

-4574/1

2001 BILL

head  
COMMERCE AND ECONOMIC DEVELOPMENT  
① COMMERCE ← subhead

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1 AN ACT ~~to amend 77.51 (5); and to create 77.54 (46) and chapter 141 of the~~  
2 ~~statutes,~~ relating to: certain electronic mail solicitations, representations and  
3 chain letters, collection of certain information from visitors to Internet Web  
4 sites, ~~and sales tax and use tax exemption for Internet access services,~~ and  
5 providing a penalty.

**Analysis by the Legislative Reference Bureau**

This bill prohibits certain types of electronic mail messages and creates requirements regarding certain information that is obtained by persons that maintain Web sites on the Internet. The bill also creates a sales tax and use tax exemption for Internet access services.

**Electronic mail prohibitions**

The bill prohibits the user of an electronic mail service from sending an electronic mail solicitation or chain letter that uses the service provider's equipment in a manner that violates the provider's solicitation or chain letter policy. "Electronic mail solicitation" is defined as an electronic mail message sent to encourage a person to purchase property, goods or services or to visit a Web site on the Internet. "Chain letter" is defined as an electronic mail message sent to more than one recipient that requests each recipient to send copies of the message to other recipients. The bill also prohibits any person from sending an electronic mail message or chain letter to an Internet user that uses the equipment of the Internet user's electronic mail service

**BILL**

provider in a manner that violates the provider's solicitation or chain letter policy. The bill defines "Internet user" as a person that maintains an electronic mail address with an electronic service provider.

The above prohibitions apply only if the electronic mail service provider displays the solicitation or chain letter policy on the home page of its Internet Web site and makes printed copies of the policy available at no charge. The bill provides for damages for an electronic mail service provider that is injured by a person who violates either prohibition more than 30 days after the policy is displayed on the home page. If such an injury occurs, the electronic mail service provider is entitled to the greater of: 1) the amount of actual damages; 2) \$15,000; or 3) \$50 for each electronic mail solicitation or chain letter that violates the policy.

The bill also prohibits a person from sending an electronic mail solicitation unless the person includes, with the solicitation, a return electronic mail address or notice of a toll-free telephone number that the recipient may use to notify the person that the recipient does not want to receive solicitations. If the recipient provides such notice to the person, the bill prohibits the person from sending another solicitation to the recipient. The bill requires ~~the department of agriculture, trade and consumer protection~~ ~~DATCP~~ to investigate complaints about persons that violate this prohibition, and allows DATCP or any district attorney to bring an action on behalf of the state for an injunction or other relief. In addition, a person that violates the prohibition may forfeit no more than \$10 for each solicitation that violates the prohibition, subject to a maximum forfeiture of \$1,000 per day in which a violation occurs.

In addition, the bill prohibits a person from knowingly sending an electronic mail message that represents either of the following: 1) that the message is from another person without the consent of that person; or 2) that the message is from an Internet domain name without the consent of the person that registered the name. The bill defines "Internet domain name" as a name identifying a person's Internet address that the person has registered with an organization that assigns and maintains names for Internet addresses. A person that violates this prohibition may be fined not more than \$10,000, imprisoned for not more than two years, or both. For a second violation, the length of imprisonment increases to no more than five years.

~~Website requirements~~ Internet privacy ~~subsub~~

The bill imposes certain requirements on persons that maintain Web sites for purposes of doing business in this state. First, such a person may not disclose, in exchange for money or anything else of value, information about a state resident that is obtained from the resident's use of the Internet, unless the resident consents to the disclosure. Second, such a person may not request a child to provide information to the person through the Internet that includes personal information about the child, unless the person makes a reasonable effort to obtain the consent of the child's parent or legal guardian. The bill defines "reasonable effort to obtain consent" to include requiring the parent or guardian to mail or send a facsimile consent form, provide a credit card number or provide an electronic signature. A person that violates these prohibitions may forfeit no more than \$10,000 for each violation. In addition, the bill

**BILL**

allows the department of justice to commence an action for an injunction to restrain a violation. <sup>DOJ</sup>

The bill also requires a person that maintains a Web site for purposes of doing business in this state to display a notice on the home page of the Web site that describes any information that the person collects about visitors to the Web site, including any information that is sold or provided to third parties. If the person sells or provides information to third parties, the person must allow a visitor to the Web site to notify the person whether or not the visitor consents to the sale or provision of information. If a visitor notifies the person that the visitor does not consent, the person may not sell or provide the information. A person that violates any of these requirements may forfeit no more than \$10,000.

***Sales tax exemption***

Finally, the bill creates a sales tax and use tax exemption for Internet access services.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1       **SECTION 1.** 77.51 (5) of the statutes is amended to read:

2       77.51 (5) For purposes of subs. (13) (e) and (f) and (14) (L) and s. 77.52 (2m)  
3       "incidental" "Incidental" means depending upon or appertaining to something else  
4       as primary; something necessary, appertaining to, or depending upon another which  
5       is termed the principal; something incidental to the main purpose of the service.  
6       Tangible personal property transferred by a service provider is incidental to the  
7       service if the purchaser's main purpose or objective is to obtain the service rather  
8       than the property, even though the property may be necessary or essential to  
9       providing the service.

10       **SECTION 2.** 77.54 (46) of the statutes is created to read:

11       77.54 (46) (a) In this subsection:

**BILL**

1 1. "Internet" means, collectively, the computer and telecommunications  
2 facilities, including equipment and operating software, that comprise the  
3 interconnected worldwide network of networks that use the transmission control  
4 protocol-Internet protocol, or any predecessor or successor protocols to that protocol,  
5 to communicate information by wire or radio.

6 2. "Internet access service" means providing a connection to the Internet,  
7 including providing communication or navigation software, an electronic mail  
8 address, electronic mail software, news headlines, space for a Web site, or Web site  
9 services that are incidental to providing that connection, but excluding telephone  
10 services. "Internet access service" does not include other telecommunications  
11 services and cable television system services that are conveyed via the Internet.

12 ~~(b) The gross receipts from the sale and use of Internet access services.~~

13 **SECTION 3.** Chapter 141<sup>x</sup> of the statutes is created to read:

**CHAPTER 141****INTERNET TRANSACTIONS**

14  
15  
16 **141.01** <sup>✓</sup> **Definitions.** In this chapter:

17 (1) "Child" means a resident who is less than 15 years of age.

18 (1g) "Department" means the department of agriculture, trade and consumer  
19 protection.

20 (1m) "Display on a home page" means to display in written form on a home page  
21 or at an Internet address that is readily accessible through a link on a home page.

22 (1s) "Electronic chain letter" means an electronic mail message that is sent to  
23 more than one recipient with a request that each recipient send copies of the message  
24 to other recipients.

**BILL**

1           (2) “Electronic mail service provider” means any person that is an intermediary  
2           in sending or receiving electronic mail and that provides to Internet users the ability  
3           to send or receive electronic mail.

4           (3) “Electronic mail solicitation” means an electronic mail message that is sent  
5           for the purpose of encouraging a person to purchase property, goods or services or to  
6           visit a Web site.

7           (4) “Home page” means the first page of a Web site that is displayed when a  
8           person visits the computer address of the Web site.

9           (5) “Internet domain name” means a name identifying the Internet address of  
10          a person on the Internet that the person has registered with an organization that  
11          assigns and maintains names for Internet addresses, including the Internet  
12          Network Information Center, the U.S. Domain Name Registration Services, or any  
13          successor organization.

14          (6) “Internet user” means a person that maintains an electronic mail address  
15          with an electronic mail service provider.

16          (7) “Public Web site” means a Web site that is accessible at no charge to a person  
17          who visits the Web site.

18          (8) “Resident” means an individual who is a resident of this state.

19          (9) “Send” means to initiate the transmission of an electronic mail message, but  
20          does not include any transmission of the message by an electronic mail service  
21          provider.

22          (10) “Solicitation or chain letter policy” means the policy of an electronic mail  
23          service provider regarding the sending of electronic mail solicitations or electronic  
24          chain letters by or to the provider’s Internet users.

**BILL**

1           (11) "Web site" means a collection of related computer files on the Internet that  
2 is located at an Internet address.

3           **141.02 Electronic mail. (1) SOLICITATION OR CHAIN LETTER POLICY VIOLATIONS.**

4           (a) Subject to par. (b):

5           1. No Internet user of an electronic mail service provider may send an electronic  
6 mail solicitation or electronic chain letter that uses the equipment of the provider in  
7 a manner that violates the provider's solicitation or chain letter policy.

8           2. No person may send an electronic mail solicitation or electronic chain letter  
9 to an Internet user that uses the equipment of the Internet user's electronic mail  
10 service provider in a manner that violates the provider's solicitation or chain letter  
11 policy.

12           (b) The prohibitions under par. (a) apply only to a solicitation or chain letter  
13 policy that an electronic mail service provider displays on the home page of the  
14 provider's Web site and makes available in printed form at no charge upon request.

15           (c) An electronic mail service provider who is injured by a violation of par. (a)  
16 that occurs more than 30 days after the solicitation or chain letter policy is displayed  
17 on the provider's home page may bring an action against the person who violated par.  
18 (a) and is entitled to each of the following:

19           1. The greater of the amount of actual damages, \$15,000 or an amount equal  
20 to \$50 for each electronic mail solicitation or electronic chain letter that uses the  
21 provider's equipment in a manner that violates the provider's solicitation or chain  
22 letter policy.

23           2. Notwithstanding s. 814.04, costs, disbursements, and reasonable attorney  
24 fees.

**BILL**

1           **(1m) ELECTRONIC MAIL SOLICITATIONS.** (a) No person may send an electronic mail  
2 solicitation unless the person includes with the solicitation a return electronic mail  
3 address or notice of a toll-free telephone number that the recipient of the solicitation  
4 may use to notify the person that the recipient does not want to receive electronic  
5 mail solicitations.

6           (b) If a recipient of an electronic mail solicitation uses a return electronic mail  
7 address or toll-free telephone number specified in par. (a) to notify the person that  
8 sent the electronic mail solicitation that the recipient does not want to receive an  
9 electronic mail solicitation, the person may not send another electronic mail  
10 solicitation to the recipient. A recipient who receives an electronic mail solicitation  
11 that violates this paragraph may complain to the department.

12           (c) The department shall investigate each complaint concerning a violation of  
13 par. (b). The department or any district attorney may on behalf of the state bring an  
14 action for temporary or permanent injunctive or other relief for any violation of par.  
15 (b), or for the penalties specified in par. (d), or for both.

16           (d) Any person who violates par. (b) may be required to forfeit not more than  
17 \$10 for each electronic mail solicitation that violates par. (b), subject to a maximum  
18 forfeiture of \$1,000 for each day in which a violation occurs.

19           **(2) PROHIBITED REPRESENTATIONS.** No person may knowingly send an electronic  
20 mail message that represents the message is from another person without the  
21 consent of that person, or that represents the message is from an Internet domain  
22 name without the consent of the person who has registered the name. Whoever  
23 violates this subsection may be fined not more than \$10,000 or imprisoned for not  
24 more than 2 years or both. For a 2nd or subsequent violation of this subsection, a

**BILL**

1 person may be fined not more than \$10,000 or imprisoned for not more than 5 years  
2 or both.

3 **141.03 Internet privacy. (1) CONSENT REQUIRED.** (a) A person that maintains  
4 a Web site for the purpose of doing business in this state may not disclose to another  
5 person, for money or anything else of value, any information about a resident that  
6 is obtained from the resident's use of the Internet, including from an electronic mail  
7 message sent by the resident, without the consent of the resident.

8 (b) A person that maintains a Web site for the purpose of doing business in this  
9 state may not request a child to provide information through the Internet to the  
10 person that includes personal information about the child without making a  
11 reasonable effort to obtain the consent of the child's parent or legal guardian. For  
12 purposes of this paragraph, a "reasonable effort to obtain consent" includes requiring  
13 a child's parent or guardian to mail or send a facsimile consent form to the person,  
14 provide a credit card number to the person, or provide an electronic signature, as  
15 defined in s. 137.04 (2),<sup>✓</sup> to the person.

16 (c) A person who violates par. (a) or (b)<sup>✓</sup> may be required to forfeit not more than  
17 \$10,000 for each violation. Each disclosure of or request for information about one  
18 resident or child constitutes a separate violation.

19 (d) The department of justice may commence an action in circuit court in the  
20 name of the state to restrain by temporary or permanent injunction any act or  
21 practice constituting a violation of par. (a) or (b).<sup>✓</sup>

22 **(2) WEB SITE ACCESS.** (a) A person that maintains a Web site for the purpose  
23 of doing business in this state shall do each of the following:

24 1. Display a notice on the home page of the Web site that states whether the  
25 person collects any information about visitors to the Web site and that describes any

**BILL**

1 information that is collected and the purposes for which it is collected, including a  
2 description of any information that is sold or provided to 3rd parties. A notice  
3 required under this paragraph shall be in an easily comprehensible format.

4 2. If the person sells or provides information about visitors to the Web site to  
5 3rd parties, allow a visitor to notify the person, at the time that the visitor visits the  
6 Web site, whether or not the visitor consents to the sale or provision of such  
7 information.

8 (b) If a visitor notifies a person under par. (a) that the visitor does not consent  
9 to the sale or provision of information specified in par. (a), the person may not sell  
10 or provide the information to 3rd parties.

11 (c) For purposes of par. (a), a person does not maintain a Web site for the  
12 purpose of doing business in this state if the person's involvement with the Web site  
13 is limited only to providing access to the Internet for another person that maintains  
14 the Web site for the purpose of doing business in this state.

15 (d) A person who violates par. (a) or (b) may be required to forfeit not more than  
16 \$10,000 for each violation.

17 **SECTION 9304. Initial applicability.**

agriculture, trade and  
consumer protection

18 (1) The treatment of section 141.02 (1) (a), (1m), and (2) of the statutes first  
19 applies to ELECTRONIC MAIL electronic mail messages sent on the effective date of this subsection.

20 (2) The treatment of section 141.03 (1) (a) of the statutes first applies to  
21 disclosures made on the effective date of this paragraph subsection.

22 (b) The treatment of section 141.03 (1) (b) of the statutes first applies to  
23 requests made on the effective date of this paragraph subsection.

24 **SECTION 9404. Effective date.**

Fix  
Component

**BILL**

ELECTRONIC MAIL; INTERNET PRIVACY. ← (S)

1 (1) ~~Section~~ takes effect on the first day of the 6th month beginning after

2 ~~publication.~~

3 (END)

The treatment of chapter 141 of the statutes ✓

the effective date of this subsection

## Kunkel, Mark

---

**From:** Mawdsley, Kathryn  
**Sent:** Thursday, January 17, 2002 2:46 PM  
**To:** Kunkel, Mark  
**Cc:** Grinde, Kirsten  
**Subject:** RE: Email solicitations

Mark -- this alternative looks good and covers the situations we would want it to cover.

Could you please include it in an updated draft?

Thank you,  
Kate

-----Original Message-----

**From:** Kunkel, Mark  
**Sent:** Thursday, January 17, 2002 2:35 PM  
**To:** Mawdsley, Kathryn  
**Subject:** Email solicitations

How's this for an alternative?

“Electronic mail solicitation” means an electronic mail message that a person sends for personal gain or compensation, or in the expectation of personal gain or compensation, to encourage another person to purchase property, goods or services or to visit a Web site.

I used "personal gain" to cover a self-employed person who sends a solicitation to encourage the purchase of his or her own products. "Compensation" would cover a sender who is being paid (either as an employee or contractor) to send emails on behalf of someone else.

---

Mark D. Kunkel  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-0131

2

D-NOTE

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been  
ANN

DOA:.....Mawdsley - Electronic mail solicitations and information obtained from Internet web site users

FOR 2001-03 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT <sup>Donotgen</sup> relating to certain electronic mail solicitations, representations and  
 2 chain letters, collection of certain information from visitors to Internet Web  
 3 sites and providing a penalty.

*Analysis by the Legislative Reference Bureau*  
 COMMERCE AND ECONOMIC DEVELOPMENT  
 COMMERCE

**Electronic mail prohibitions**

The bill prohibits the user of an electronic mail service from sending an electronic mail solicitation or chain letter that uses the service provider's equipment in a manner that violates the provider's solicitation or chain letter policy. "Electronic mail solicitation" is defined as an electronic mail message sent to encourage a person to purchase property, goods or services or to visit a Web site on the Internet. "Chain letter" is defined as an electronic mail message sent to more than one recipient that requests each recipient to send copies of the message to other recipients. The bill also prohibits any person from sending an electronic mail message or chain letter to an Internet user that uses the equipment of the Internet user's electronic mail service provider in a manner that violates the provider's solicitation or chain letter policy. The bill defines "Internet user" as a person that maintains an electronic mail address with an electronic service provider.

for personal gain or  
compensation, or in  
expectation of personal gain or  
compensation,

The above prohibitions apply only if the electronic mail service provider displays the solicitation or chain letter policy on the home page of its Internet Web site and makes printed copies of the policy available at no charge. The bill provides for damages for an electronic mail service provider that is injured by a person who violates either prohibition more than 30 days after the policy is displayed on the home page. If such an injury occurs, the electronic mail service provider is entitled to the greater of: 1) the amount of actual damages; 2) \$15,000; or 3) \$50 for each electronic mail solicitation or chain letter that violates the policy.

The bill also prohibits a person from sending an electronic mail solicitation unless the person includes, with the solicitation, a return electronic mail address or notice of a toll-free telephone number that the recipient may use to notify the person that the recipient does not want to receive solicitations. If the recipient provides such notice to the person, the bill prohibits the person from sending another solicitation to the recipient. The bill requires DATCP to investigate complaints about persons that violate this prohibition, and allows DATCP or any district attorney to bring an action on behalf of the state for an injunction or other relief. In addition, a person that violates the prohibition may forfeit no more than \$10 for each solicitation that violates the prohibition, subject to a maximum forfeiture of \$1,000 per day in which a violation occurs.

In addition, the bill prohibits a person from knowingly sending an electronic mail message that represents either of the following: 1) that the message is from another person without the consent of that person; or 2) that the message is from an Internet domain name without the consent of the person that registered the name. The bill defines "Internet domain name" as a name identifying a person's Internet address that the person has registered with an organization that assigns and maintains names for Internet addresses. A person that violates this prohibition may be fined not more than \$10,000, imprisoned for not more than two years, or both. For a second violation, the length of imprisonment increases to no more than five years.

### ***Internet privacy***

The bill imposes certain requirements on persons that maintain Web sites for purposes of doing business in this state. First, such a person may not disclose, in exchange for money or anything else of value, information about a state resident that is obtained from the resident's use of the Internet, unless the resident consents to the disclosure. Second, such a person may not request a child to provide information to the person through the Internet that includes personal information about the child, unless the person makes a reasonable effort to obtain the consent of the child's parent or legal guardian. The bill defines "reasonable effort to obtain consent" to include requiring the parent or guardian to mail or send a facsimile consent form, provide a credit card number or provide an electronic signature. A person that violates these prohibitions may forfeit no more than \$10,000 for each violation. In addition, the bill allows DOJ to commence an action for an injunction to restrain a violation.

The bill also requires a person that maintains a Web site for purposes of doing business in this state to display a notice on the home page of the Web site that describes any information that the person collects about visitors to the Web site, including any information that is sold or provided to third parties. If the person sells

or provides information to third parties, the person must allow a visitor to the Web site to notify the person whether or not the visitor consents to the sale or provision of information. If a visitor notifies the person that the visitor does not consent, the person may not sell or provide the information. A person that violates any of these requirements may forfeit no more than \$10,000.

---

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

1 SECTION 1. Chapter 141 of the statutes is created to read:

2 CHAPTER 141

3 INTERNET TRANSACTIONS

4 **141.01 Definitions.** In this chapter:

5 (1) "Child" means a resident who is less than 15 years of age.

6 (1g) "Department" means the department of agriculture, trade and consumer  
7 protection.

8 (1m) "Display on a home page" means to display in written form on a home page  
9 or at an Internet address that is readily accessible through a link on a home page.

10 (1s) "Electronic chain letter" means an electronic mail message that is sent to  
11 more than one recipient with a request that each recipient send copies of the message  
12 to other recipients.

13 (2) "Electronic mail service provider" means any person that is an intermediary  
14 in sending or receiving electronic mail and that provides to Internet users the ability  
15 to send or receive electronic mail.

16 (3) "Electronic mail solicitation" means an electronic mail message that is sent  
17 for the purpose of encouraging a person to purchase property, goods, or services or to  
18 visit a Web site.

a person sends for personal gain  
or compensation, or in the expectation of  
personal gain or compensation, to encourage  
another

1           (4) "Home page" means the first page of a Web site that is displayed when a  
2 person visits the computer address of the Web site.

3           (5) "Internet domain name" means a name identifying the Internet address of  
4 a person on the Internet that the person has registered with an organization that  
5 assigns and maintains names for Internet addresses, including the Internet  
6 Network Information Center, the U.S. Domain Name Registration Services, or any  
7 successor organization.

8           (6) "Internet user" means a person that maintains an electronic mail address  
9 with an electronic mail service provider.

10          (7) "Public Web site" means a Web site that is accessible at no charge to a person  
11 who visits the Web site.

12          (8) "Resident" means an individual who is a resident of this state.

13          (9) "Send" means to initiate the transmission of an electronic mail message, but  
14 does not include any transmission of the message by an electronic mail service  
15 provider.

16          (10) "Solicitation or chain letter policy" means the policy of an electronic mail  
17 service provider regarding the sending of electronic mail solicitations or electronic  
18 chain letters by or to the provider's Internet users.

19          (11) "Web site" means a collection of related computer files on the Internet that  
20 is located at an Internet address.

21           **141.02 Electronic mail. (1) SOLICITATION OR CHAIN LETTER POLICY VIOLATIONS.**

22           (a) Subject to par. (b):

23           1. No Internet user of an electronic mail service provider may send an electronic  
24 mail solicitation or electronic chain letter that uses the equipment of the provider in  
25 a manner that violates the provider's solicitation or chain letter policy.

1           2. No person may send an electronic mail solicitation or electronic chain letter  
2 to an Internet user that uses the equipment of the Internet user's electronic mail  
3 service provider in a manner that violates the provider's solicitation or chain letter  
4 policy.

5           (b) The prohibitions under par. (a) apply only to a solicitation or chain letter  
6 policy that an electronic mail service provider displays on the home page of the  
7 provider's Web site and makes available in printed form at no charge upon request.

8           (c) An electronic mail service provider who is injured by a violation of par. (a)  
9 that occurs more than 30 days after the solicitation or chain letter policy is displayed  
10 on the provider's home page may bring an action against the person who violated par.  
11 (a) and is entitled to each of the following:

12           1. The greater of the amount of actual damages, \$15,000 or an amount equal  
13 to \$50 for each electronic mail solicitation or electronic chain letter that uses the  
14 provider's equipment in a manner that violates the provider's solicitation or chain  
15 letter policy.

16           2. Notwithstanding s. 814.04, costs, disbursements, and reasonable attorney  
17 fees.

18           **(1m) ELECTRONIC MAIL SOLICITATIONS.** (a) No person may send an electronic mail  
19 solicitation unless the person includes with the solicitation a return electronic mail  
20 address or notice of a toll-free telephone number that the recipient of the solicitation  
21 may use to notify the person that the recipient does not want to receive electronic  
22 mail solicitations.

23           (b) If a recipient of an electronic mail solicitation uses a return electronic mail  
24 address or toll-free telephone number specified in par. (a) to notify the person that  
25 sent the electronic mail solicitation that the recipient does not want to receive an

1 electronic mail solicitation, the person may not send another electronic mail  
2 solicitation to the recipient. A recipient who receives an electronic mail solicitation  
3 that violates this paragraph may complain to the department.

4 (c) The department shall investigate each complaint concerning a violation of  
5 par. (b). The department or any district attorney may on behalf of the state bring an  
6 action for temporary or permanent injunctive or other relief for any violation of par.  
7 (b), or for the penalties specified in par. (d), or for both.

8 (d) Any person who violates par. (b) may be required to forfeit not more than  
9 \$10 for each electronic mail solicitation that violates par. (b), subject to a maximum  
10 forfeiture of \$1,000 for each day in which a violation occurs.

11 (2) PROHIBITED REPRESENTATIONS. No person may knowingly send an electronic  
12 mail message that represents the message is from another person without the  
13 consent of that person, or that represents the message is from an Internet domain  
14 name without the consent of the person who has registered the name. Whoever  
15 violates this subsection may be fined not more than \$10,000 or imprisoned for not  
16 more than 2 years or both. For a 2nd or subsequent violation of this subsection, a  
17 person may be fined not more than \$10,000 or imprisoned for not more than 5 years  
18 or both.

19 **141.03 Internet privacy. (1) CONSENT REQUIRED.** (a) A person that maintains  
20 a Web site for the purpose of doing business in this state may not disclose to another  
21 person, for money or anything else of value, any information about a resident that  
22 is obtained from the resident's use of the Internet, including from an electronic mail  
23 message sent by the resident, without the consent of the resident.

24 (b) A person that maintains a Web site for the purpose of doing business in this  
25 state may not request a child to provide information through the Internet to the

1 person that includes personal information about the child without making a  
2 reasonable effort to obtain the consent of the child's parent or legal guardian. For  
3 purposes of this paragraph, a "reasonable effort to obtain consent" includes requiring  
4 a child's parent or guardian to mail or send a facsimile consent form to the person,  
5 provide a credit card number to the person, or provide an electronic signature, as  
6 defined in s. 137.04 (2), to the person.

7 (c) A person who violates par. (a) or (b) may be required to forfeit not more than  
8 \$10,000 for each violation. Each disclosure of or request for information about one  
9 resident or child constitutes a separate violation.

10 (d) The department of justice may commence an action in circuit court in the  
11 name of the state to restrain by temporary or permanent injunction any act or  
12 practice constituting a violation of par. (a) or (b).

13 **(2) WEB SITE ACCESS.** (a) A person that maintains a Web site for the purpose  
14 of doing business in this state shall do each of the following:

15 1. Display a notice on the home page of the Web site that states whether the  
16 person collects any information about visitors to the Web site and that describes any  
17 information that is collected and the purposes for which it is collected, including a  
18 description of any information that is sold or provided to 3rd parties. A notice  
19 required under this paragraph shall be in an easily comprehensible format.

20 2. If the person sells or provides information about visitors to the Web site to  
21 3rd parties, allow a visitor to notify the person, at the time that the visitor visits the  
22 Web site, whether or not the visitor consents to the sale or provision of such  
23 information.

1 (b) If a visitor notifies a person under par. (a) that the visitor does not consent  
2 to the sale or provision of information specified in par. (a), the person may not sell  
3 or provide the information to 3rd parties.

4 (c) For purposes of par. (a), a person does not maintain a Web site for the  
5 purpose of doing business in this state if the person's involvement with the Web site  
6 is limited only to providing access to the Internet for another person that maintains  
7 the Web site for the purpose of doing business in this state.

8 (d) A person who violates par. (a) or (b) may be required to forfeit not more than  
9 \$10,000 for each violation.

10 **SECTION 9304. Initial applicability; agriculture, trade and consumer**  
11 **protection.**

12 (1) ELECTRONIC MAIL. The treatment of section 141.02 (1) (a), (1m), and (2) of  
13 the statutes first applies to electronic mail messages sent on the effective date of this  
14 subsection.

15 (2) INTERNET PRIVACY.

16 (a) The treatment of section 141.03 (1) (a) of the statutes first applies to  
17 disclosures made on the effective date of this paragraph.

18 (b) The treatment of section 141.03 (1) (b) of the statutes first applies to  
19 requests made on the effective date of this paragraph.

20 **SECTION 9404. Effective dates; agriculture, trade and consumer**  
21 **protection.**

22 (1) ELECTRONIC MAIL; INTERNET PRIVACY. The treatment of chapter 141 of the  
23 statutes takes effect on the first day of the 6th month beginning after the effective  
24 date of this subsection.

25 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4574/2dn  
MDK: *MDK*

*Date*

Kathryn Mawdsley:

This version is identical to the previous version, except for the change to the definition of "electronic mail solicitation".

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.state.wi.us

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4574/2dn  
MDK:hmh:pg

January 17, 2002

Kathryn Mawdsley:

This version is identical to the previous version, except for the change to the definition of "electronic mail solicitation."

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.state.wi.us](mailto:mark.kunkel@legis.state.wi.us)

3

NOW

Rm has been RUN

DOA:.....Mawdsley – Electronic mail solicitations and information obtained from Internet web site users

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

Don't gen

- 1 AN ACT ...; relating to: certain electronic mail solicitations, representations and
- 2 chain letters, collection of certain information from visitors to Internet Web
- 3 sites and providing a penalty.

*Analysis by the Legislative Reference Bureau*

**COMMERCE AND ECONOMIC DEVELOPMENT**

**COMMERCE**

***Electronic mail prohibitions***

The bill prohibits the user of an electronic mail service from sending an electronic mail solicitation or chain letter that uses the service provider's equipment in a manner that violates the provider's solicitation or chain letter policy. "Electronic mail solicitation" is defined as an electronic mail message sent for personal gain or compensation, or in expectation of personal gain or compensation, to encourage a person to purchase property, goods or services or to visit a Web site on the Internet. "Chain letter" is defined as an electronic mail message sent to more than one recipient that requests each recipient to send copies of the message to other recipients. The bill also prohibits any person from sending an electronic mail message or chain letter to an Internet user that uses the equipment of the Internet user's electronic mail service provider in a manner that violates the provider's

solicitation or chain letter policy. The bill defines "Internet user" as a person that maintains an electronic mail address with an electronic service provider.

The above prohibitions apply only if the electronic mail service provider displays the solicitation or chain letter policy on the home page of its Internet Web site and makes printed copies of the policy available at no charge. The bill provides for damages for an electronic mail service provider that is injured by a person who violates either prohibition more than 30 days after the policy is displayed on the home page. If such an injury occurs, the electronic mail service provider is entitled to the greater of: 1) the amount of actual damages; 2) \$15,000; or 3) \$50 for each electronic mail solicitation or chain letter that violates the policy.

The bill also prohibits a person from sending an electronic mail solicitation unless the person includes, with the solicitation, a return electronic mail address or notice of a toll-free telephone number that the recipient may use to notify the person that the recipient does not want to receive solicitations. If the recipient provides such notice to the person, the bill prohibits the person from sending another solicitation to the recipient. The bill requires DATCP to investigate complaints about persons that violate this prohibition, and allows DATCP or any district attorney to bring an action on behalf of the state for an injunction or other relief. In addition, a person that violates the prohibition may forfeit no more than \$10 for each solicitation that violates the prohibition, subject to a maximum forfeiture of \$1,000 per day in which a violation occurs.

In addition, the bill prohibits a person from knowingly sending an electronic mail message that represents either of the following: 1) that the message is from another person without the consent of that person; or 2) that the message is from an Internet domain name without the consent of the person that registered the name. The bill defines "Internet domain name" as a name identifying a person's Internet address that the person has registered with an organization that assigns and maintains names for Internet addresses. A person that violates this prohibition may be fined not more than \$10,000, imprisoned for not more than two years, or both. For a second violation, the length of imprisonment increases to no more than five years.

### ***Internet privacy***

The bill imposes certain requirements on persons that maintain Web sites for purposes of doing business in this state. First, such a person may not disclose, in exchange for money or anything else of value, information about a state resident that is obtained from the resident's use of the Internet, unless the resident consents to the disclosure. Second, such a person may not request a child to provide information to the person through the Internet that includes personal information about the child, unless the person makes a reasonable effort to obtain the consent of the child's parent or legal guardian. The bill defines "reasonable effort to obtain consent" to include requiring the parent or guardian to mail or send a facsimile consent form, provide a credit card number or provide an electronic signature. A person that violates these prohibitions may forfeit no more than \$10,000 for each violation. In addition, the bill allows DOJ to commence an action for an injunction to restrain a violation.

The bill also requires a person that maintains a Web site for purposes of doing business in this state to display a notice on the home page of the Web site that



1 gain or compensation, to encourage another person to purchase property, goods, or  
2 services or to visit a Web site.

3 (4) "Home page" means the first page of a Web site that is displayed when a  
4 person visits the computer address of the Web site.

5 (5) "Internet domain name" means a name identifying the Internet address of  
6 a person on the Internet that the person has registered with an organization that  
7 assigns and maintains names for Internet addresses, including the Internet  
8 Network Information Center, the U.S. Domain Name Registration Services, or any  
9 successor organization.

10 (6) "Internet user" means a person that maintains an electronic mail address  
11 with an electronic mail service provider.

12 (7) "Public Web site" means a Web site that is accessible at no charge to a person  
13 who visits the Web site.

14 (8) "Resident" means an individual who is a resident of this state.

15 (9) "Send" means to initiate the transmission of an electronic mail message, but  
16 does not include any transmission of the message by an electronic mail service  
17 provider.

18 (10) "Solicitation or chain letter policy" means the policy of an electronic mail  
19 service provider regarding the sending of electronic mail solicitations or electronic  
20 chain letters by or to the provider's Internet users.

21 (11) "Web site" means a collection of related computer files on the Internet that  
22 is located at an Internet address.

23 **141.02 Electronic mail. (1) SOLICITATION OR CHAIN LETTER POLICY VIOLATIONS.**

24 (a) Subject to par. (b):

1           1. No Internet user of an electronic mail service provider may send an electronic  
2 mail solicitation or electronic chain letter that uses the equipment of the provider in  
3 a manner that violates the provider's solicitation or chain letter policy.

4           2. No person may send an electronic mail solicitation or electronic chain letter  
5 to an Internet user that uses the equipment of the Internet user's electronic mail  
6 service provider in a manner that violates the provider's solicitation or chain letter  
7 policy.

8           (b) The prohibitions under par. (a) apply only to a solicitation or chain letter  
9 policy that an electronic mail service provider displays on the home page of the  
10 provider's Web site and makes available in printed form at no charge upon request.

11           (c) An electronic mail service provider who is injured by a violation of par. (a)  
12 that occurs more than 30 days after the solicitation or chain letter policy is displayed  
13 on the provider's home page may bring an action against the person who violated par.  
14 (a) and is entitled to each of the following:

15           1. The greater of the amount of actual damages, \$15,000 or an amount equal  
16 to \$50 for each electronic mail solicitation or electronic chain letter that uses the  
17 provider's equipment in a manner that violates the provider's solicitation or chain  
18 letter policy.

19           2. Notwithstanding s. 814.04, costs, disbursements, and reasonable attorney  
20 fees.

21           **(1m) ELECTRONIC MAIL SOLICITATIONS.** (a) No person may send an electronic mail  
22 solicitation unless the person includes with the solicitation a return electronic mail  
23 address or notice of a toll-free telephone number that the recipient of the solicitation  
24 may use to notify the person that the recipient does not want to receive electronic  
25 mail solicitations.

1 (b) If a recipient of an electronic mail solicitation uses a return electronic mail  
2 address or toll-free telephone number specified in par. (a) to notify the person that  
3 sent the electronic mail solicitation that the recipient does not want to receive an  
4 electronic mail solicitation, the person may not send another electronic mail  
5 solicitation to the recipient. A recipient who receives an electronic mail solicitation  
6 that violates this paragraph may complain to the department.

7 (c) The department shall investigate each complaint concerning a violation of  
8 par. (b). The department or any district attorney may on behalf of the state bring an  
9 action for temporary or permanent injunctive or other relief for any violation of par.  
10 (b), or for the penalties specified in par. (d), or for both.

11 (d) Any person who violates par. (b) may be required to forfeit not more than  
12 \$10 for each electronic mail solicitation that violates par. (b), subject to a maximum  
13 forfeiture of \$1,000 for each day in which a violation occurs.

14 (2) PROHIBITED REPRESENTATIONS. No person may knowingly send an electronic  
15 mail message that represents the message is from another person without the  
16 consent of that person, or that represents the message is from an Internet domain  
17 name without the consent of the person who has registered the name. Whoever  
18 violates this subsection may be fined not more than \$10,000 or imprisoned for not  
19 more than 2 years or both. For a 2nd or subsequent violation of this subsection, a  
20 person may be fined not more than \$10,000 or imprisoned for not more than 5 years  
21 or both.

22 **141.03 Internet privacy.** (1) CONSENT REQUIRED. (a) A person that maintains  
23 a Web site for the purpose of doing business in this state may not disclose to another  
24 person, for money or anything else of value, any information about a resident that

1 is obtained from the resident's use of the Internet, including from an electronic mail  
2 message sent by the resident, without the consent of the resident.

3 (b) A person that maintains a Web site for the purpose of doing business in this  
4 state may not request a child to provide information through the Internet to the  
5 person that includes personal information about the child without making a  
6 reasonable effort to obtain the consent of the child's parent or legal guardian. For  
7 purposes of this paragraph, a "reasonable effort to obtain consent" includes requiring  
8 a child's parent or guardian to mail or send a facsimile consent form to the person,  
9 provide a credit card number to the person, or provide an electronic signature, as  
10 defined in s. ~~137.11(8)~~ to the person. 137.11(8)

11 (c) A person who violates par. (a) or (b) may be required to forfeit not more than  
12 \$10,000 for each violation. Each disclosure of or request for information about one  
13 resident or child constitutes a separate violation.

14 (d) The department of justice may commence an action in circuit court in the  
15 name of the state to restrain by temporary or permanent injunction any act or  
16 practice constituting a violation of par. (a) or (b).

17 (2) WEB SITE ACCESS. (a) A person that maintains a Web site for the purpose  
18 of doing business in this state shall do each of the following:

19 1. Display a notice on the home page of the Web site that states whether the  
20 person collects any information about visitors to the Web site and that describes any  
21 information that is collected and the purposes for which it is collected, including a  
22 description of any information that is sold or provided to 3rd parties. A notice  
23 required under this paragraph shall be in an easily comprehensible format.

24 2. If the person sells or provides information about visitors to the Web site to  
25 3rd parties, allow a visitor to notify the person, at the time that the visitor visits the

1 Web site, whether or not the visitor consents to the sale or provision of such  
2 information.

3 (b) If a visitor notifies a person under par. (a) that the visitor does not consent  
4 to the sale or provision of information specified in par. (a), the person may not sell  
5 or provide the information to 3rd parties.

6 (c) For purposes of par. (a), a person does not maintain a Web site for the  
7 purpose of doing business in this state if the person's involvement with the Web site  
8 is limited only to providing access to the Internet for another person that maintains  
9 the Web site for the purpose of doing business in this state.

10 (d) A person who violates par. (a) or (b) may be required to forfeit not more than  
11 \$10,000 for each violation.

12 **SECTION 9304. Initial applicability; agriculture, trade and consumer**  
13 **protection.**

14 *auto ref A (to eff date)*  
15 (1) ELECTRONIC MAIL. The treatment of section 141.02 (1) (a), (1m), and (2) of  
16 the statutes first applies to electronic mail messages sent on the effective date of this  
17 subsection.

18 *auto ref B (to eff date)*  
19 (2) INTERNET PRIVACY.

20 (a) The treatment of section 141.03 (1) (a) of the statutes first applies to  
21 disclosures made on the effective date of this paragraph.

22 (b) The treatment of section 141.03 (1) (b) of the statutes first applies to  
23 requests made on the effective date of this paragraph.

24 **SECTION 9404. Effective dates; agriculture, trade and consumer**  
25 **protection.**

1 (1) ELECTRONIC MAIL; INTERNET PRIVACY. The treatment of chapter 141 of the  
2 statutes takes effect on the first day of the ~~6th~~ month beginning after the effective  
3 date of this subsection.

4 (END)

7th ✓

and SECTION 9304 of this act

(1) and (2)  
↑ auto ref A      ↑ auto ref B



State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-4574/3  
MDK&JK:hmh&jld:ch

DOA:.....Mawdsley – Electronic mail solicitations and information obtained  
from Internet web site users

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1     **AN ACT ...; relating to:** certain electronic mail solicitations, representations and  
2             chain letters, collection of certain information from visitors to Internet Web  
3             sites and providing a penalty.

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*Analysis by the Legislative Reference Bureau*  
**COMMERCE AND ECONOMIC DEVELOPMENT**

**COMMERCE**

***Electronic mail prohibitions***

The bill prohibits the user of an electronic mail service from sending an electronic mail solicitation or chain letter that uses the service provider's equipment in a manner that violates the provider's solicitation or chain letter policy. "Electronic mail solicitation" is defined as an electronic mail message sent for personal gain or compensation, or in expectation of personal gain or compensation, to encourage a person to purchase property, goods or services or to visit a Web site on the Internet. "Chain letter" is defined as an electronic mail message sent to more than one recipient that requests each recipient to send copies of the message to other recipients. The bill also prohibits any person from sending an electronic mail message or chain letter to an Internet user that uses the equipment of the Internet user's electronic mail service provider in a manner that violates the provider's

solicitation or chain letter policy. The bill defines "Internet user" as a person that maintains an electronic mail address with an electronic service provider.

The above prohibitions apply only if the electronic mail service provider displays the solicitation or chain letter policy on the home page of its Internet Web site and makes printed copies of the policy available at no charge. The bill provides for damages for an electronic mail service provider that is injured by a person who violates either prohibition more than 30 days after the policy is displayed on the home page. If such an injury occurs, the electronic mail service provider is entitled to the greater of: 1) the amount of actual damages; 2) \$15,000; or 3) \$50 for each electronic mail solicitation or chain letter that violates the policy.

The bill also prohibits a person from sending an electronic mail solicitation unless the person includes, with the solicitation, a return electronic mail address or notice of a toll-free telephone number that the recipient may use to notify the person that the recipient does not want to receive solicitations. If the recipient provides such notice to the person, the bill prohibits the person from sending another solicitation to the recipient. The bill requires DATCP to investigate complaints about persons that violate this prohibition, and allows DATCP or any district attorney to bring an action on behalf of the state for an injunction or other relief. In addition, a person that violates the prohibition may forfeit no more than \$10 for each solicitation that violates the prohibition, subject to a maximum forfeiture of \$1,000 per day in which a violation occurs.

In addition, the bill prohibits a person from knowingly sending an electronic mail message that represents either of the following: 1) that the message is from another person without the consent of that person; or 2) that the message is from an Internet domain name without the consent of the person that registered the name. The bill defines "Internet domain name" as a name identifying a person's Internet address that the person has registered with an organization that assigns and maintains names for Internet addresses. A person that violates this prohibition may be fined not more than \$10,000, imprisoned for not more than two years, or both. For a second violation, the length of imprisonment increases to no more than five years.

### ***Internet privacy***

The bill imposes certain requirements on persons that maintain Web sites for purposes of doing business in this state. First, such a person may not disclose, in exchange for money or anything else of value, information about a state resident that is obtained from the resident's use of the Internet, unless the resident consents to the disclosure. Second, such a person may not request a child to provide information to the person through the Internet that includes personal information about the child, unless the person makes a reasonable effort to obtain the consent of the child's parent or legal guardian. The bill defines "reasonable effort to obtain consent" to include requiring the parent or guardian to mail or send a facsimile consent form, provide a credit card number or provide an electronic signature. A person that violates these prohibitions may forfeit no more than \$10,000 for each violation. In addition, the bill allows DOJ to commence an action for an injunction to restrain a violation.

The bill also requires a person that maintains a Web site for purposes of doing business in this state to display a notice on the home page of the Web site that



1 gain or compensation, to encourage another person to purchase property, goods, or  
2 services or to visit a Web site.

3 (4) “Home page” means the first page of a Web site that is displayed when a  
4 person visits the computer address of the Web site.

5 (5) “Internet domain name” means a name identifying the Internet address of  
6 a person on the Internet that the person has registered with an organization that  
7 assigns and maintains names for Internet addresses, including the Internet  
8 Network Information Center, the U.S. Domain Name Registration Services, or any  
9 successor organization.

10 (6) “Internet user” means a person that maintains an electronic mail address  
11 with an electronic mail service provider.

12 (7) “Public Web site” means a Web site that is accessible at no charge to a person  
13 who visits the Web site.

14 (8) “Resident” means an individual who is a resident of this state.

15 (9) “Send” means to initiate the transmission of an electronic mail message, but  
16 does not include any transmission of the message by an electronic mail service  
17 provider.

18 (10) “Solicitation or chain letter policy” means the policy of an electronic mail  
19 service provider regarding the sending of electronic mail solicitations or electronic  
20 chain letters by or to the provider’s Internet users.

21 (11) “Web site” means a collection of related computer files on the Internet that  
22 is located at an Internet address.

23 **141.02 Electronic mail. (1) SOLICITATION OR CHAIN LETTER POLICY VIOLATIONS.**

24 (a) Subject to par. (b):

1           1. No Internet user of an electronic mail service provider may send an electronic  
2 mail solicitation or electronic chain letter that uses the equipment of the provider in  
3 a manner that violates the provider's solicitation or chain letter policy.

4           2. No person may send an electronic mail solicitation or electronic chain letter  
5 to an Internet user that uses the equipment of the Internet user's electronic mail  
6 service provider in a manner that violates the provider's solicitation or chain letter  
7 policy.

8           (b) The prohibitions under par. (a) apply only to a solicitation or chain letter  
9 policy that an electronic mail service provider displays on the home page of the  
10 provider's Web site and makes available in printed form at no charge upon request.

11           (c) An electronic mail service provider who is injured by a violation of par. (a)  
12 that occurs more than 30 days after the solicitation or chain letter policy is displayed  
13 on the provider's home page may bring an action against the person who violated par.  
14 (a) and is entitled to each of the following:

15           1. The greater of the amount of actual damages, \$15,000 or an amount equal  
16 to \$50 for each electronic mail solicitation or electronic chain letter that uses the  
17 provider's equipment in a manner that violates the provider's solicitation or chain  
18 letter policy.

19           2. Notwithstanding s. 814.04, costs, disbursements, and reasonable attorney  
20 fees.

21           **(1m) ELECTRONIC MAIL SOLICITATIONS.** (a) No person may send an electronic mail  
22 solicitation unless the person includes with the solicitation a return electronic mail  
23 address or notice of a toll-free telephone number that the recipient of the solicitation  
24 may use to notify the person that the recipient does not want to receive electronic  
25 mail solicitations.

1 (b) If a recipient of an electronic mail solicitation uses a return electronic mail  
2 address or toll-free telephone number specified in par. (a) to notify the person that  
3 sent the electronic mail solicitation that the recipient does not want to receive an  
4 electronic mail solicitation, the person may not send another electronic mail  
5 solicitation to the recipient. A recipient who receives an electronic mail solicitation  
6 that violates this paragraph may complain to the department.

7 (c) The department shall investigate each complaint concerning a violation of  
8 par. (b). The department or any district attorney may on behalf of the state bring an  
9 action for temporary or permanent injunctive or other relief for any violation of par.  
10 (b), or for the penalties specified in par. (d), or for both.

11 (d) Any person who violates par. (b) may be required to forfeit not more than  
12 \$10 for each electronic mail solicitation that violates par. (b), subject to a maximum  
13 forfeiture of \$1,000 for each day in which a violation occurs.

14 **(2) PROHIBITED REPRESENTATIONS.** No person may knowingly send an electronic  
15 mail message that represents the message is from another person without the  
16 consent of that person, or that represents the message is from an Internet domain  
17 name without the consent of the person who has registered the name. Whoever  
18 violates this subsection may be fined not more than \$10,000 or imprisoned for not  
19 more than 2 years or both. For a 2nd or subsequent violation of this subsection, a  
20 person may be fined not more than \$10,000 or imprisoned for not more than 5 years  
21 or both.

22 **141.03 Internet privacy. (1) CONSENT REQUIRED.** (a) A person that maintains  
23 a Web site for the purpose of doing business in this state may not disclose to another  
24 person, for money or anything else of value, any information about a resident that

1 is obtained from the resident's use of the Internet, including from an electronic mail  
2 message sent by the resident, without the consent of the resident.

3 (b) A person that maintains a Web site for the purpose of doing business in this  
4 state may not request a child to provide information through the Internet to the  
5 person that includes personal information about the child without making a  
6 reasonable effort to obtain the consent of the child's parent or legal guardian. For  
7 purposes of this paragraph, a "reasonable effort to obtain consent" includes requiring  
8 a child's parent or guardian to mail or send a facsimile consent form to the person,  
9 provide a credit card number to the person, or provide an electronic signature, as  
10 defined in s. 137.11 (8), to the person.

11 (c) A person who violates par. (a) or (b) may be required to forfeit not more than  
12 \$10,000 for each violation. Each disclosure of or request for information about one  
13 resident or child constitutes a separate violation.

14 (d) The department of justice may commence an action in circuit court in the  
15 name of the state to restrain by temporary or permanent injunction any act or  
16 practice constituting a violation of par. (a) or (b).

17 **(2) WEB SITE ACCESS.** (a) A person that maintains a Web site for the purpose  
18 of doing business in this state shall do each of the following:

19 1. Display a notice on the home page of the Web site that states whether the  
20 person collects any information about visitors to the Web site and that describes any  
21 information that is collected and the purposes for which it is collected, including a  
22 description of any information that is sold or provided to 3rd parties. A notice  
23 required under this paragraph shall be in an easily comprehensible format.

24 2. If the person sells or provides information about visitors to the Web site to  
25 3rd parties, allow a visitor to notify the person, at the time that the visitor visits the

1 Web site, whether or not the visitor consents to the sale or provision of such  
2 information.

3 (b) If a visitor notifies a person under par. (a) that the visitor does not consent  
4 to the sale or provision of information specified in par. (a), the person may not sell  
5 or provide the information to 3rd parties.

6 (c) For purposes of par. (a), a person does not maintain a Web site for the  
7 purpose of doing business in this state if the person's involvement with the Web site  
8 is limited only to providing access to the Internet for another person that maintains  
9 the Web site for the purpose of doing business in this state.

10 (d) A person who violates par. (a) or (b) may be required to forfeit not more than  
11 \$10,000 for each violation.

12 **SECTION 9304. Initial applicability; agriculture, trade and consumer**  
13 **protection.**

14 (1) ELECTRONIC MAIL. The treatment of section 141.02 (1) (a), (1m), and (2) of  
15 the statutes first applies to electronic mail messages sent on the effective date of this  
16 subsection.

17 (2) INTERNET PRIVACY.

18 (a) The treatment of section 141.03 (1) (a) of the statutes first applies to  
19 disclosures made on the effective date of this paragraph.

20 (b) The treatment of section 141.03 (1) (b) of the statutes first applies to  
21 requests made on the effective date of this paragraph.

22 **SECTION 9404. Effective dates; agriculture, trade and consumer**  
23 **protection.**

