

2001 DRAFTING REQUEST

Bill

Received: **01/30/2001**

Received By: **gibsom**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing:

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

Drafter: **gibsom**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - electron com**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Unsolicited electronic mail

Instructions:

Same as 99-0307

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>
/1	gibsom 03/06/2001	gilfokm 03/06/2001	jfrantze 03/07/2001	_____	lrb_docadmin 03/07/2001	lrb_docadmin 06/27/2001	

FE Sent For:

<END>

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1/?	gibsom	1-3/king 1-6-01	3/17	6/18/01 3/17			

FE Sent For:

<END>



State of Wisconsin
2001 - 2002 LEGISLATURE

RMR
LRB-2314-1
MGG: King

D-N
soon

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 AN ACT ^{Sen. Act.} relating to: restrictions on the transmission of unsolicited electronic
2 mail.

Analysis by the Legislative Reference Bureau

Current law restricts the transmittal of unsolicited messages by facsimile machine for the purpose of encouraging customers to purchase property, goods, or services. This bill imposes similar restrictions on the transmittal of unsolicited electronic mail for this purpose. Under the bill, a person sending such electronic mail (solicitor) may not transmit an unsolicited message without the consent of the person being solicited unless the message is sent during nighttime hours and ~~could~~ ^{will} be less than one page in length if printed and the person being solicited has or has had a previous business relationship with the solicitor.

bill

The ^{bill} also impose a prohibition on any electronic mail solicitation to a person who has notified a solicitor in writing or by electronic mail that the person does not want to receive electronic mail solicitations.

The restrictions and prohibitions under the bill do not apply to a person who provides computer users with access to a computer network and who, as part of that service, transmits electronic mail to those users.

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

3 SECTION 1. 134.74 of the statutes is created to read:

1 **134.74 Restrictions on unsolicited electronic mail.** (1) DEFINITIONS. In
2 this section:

3 (a) “Electronic mail solicitation” means the unsolicited transmission of a
4 message by electronic mail for the purpose of encouraging a person to purchase
5 property, goods, ^{or} services.

6 (b) “Solicitor” means a person who makes an electronic mail solicitation.

7 (2) RESTRICTIONS. No solicitor may make an electronic mail solicitation without
8 the prior consent of the person solicited unless all of the following apply:

9 (a) The electronic mail solicitation ~~would~~^{will} not exceed one page in length if
10 printed.

11 (b) The electronic mail solicitation is transmitted after 9 p.m and before 6 a.m.

12 (c) The solicitor has or has had a business relationship with the person
13 solicited.

14 (3) PROHIBITION. No solicitor may make any electronic mail solicitation to a
15 person who has notified the solicitor in writing or by electronic mail that the person
16 does not want to receive electronic mail solicitations.

17 (4) EXCEPTIONS. Subsections (2) and (3) do not apply to a person who provides
18 computer users with access to a computer network and who, as part of that service,
19 transmits electronic mail solicitations, other than electronic mail solicitations
20 prepared by the person providing access to the computer network, to those users.

21 (5) TERRITORIAL APPLICATION. This section applies to any electronic mail
22 solicitation received by a person in this state.

23 **SECTION 2. Initial applicability.**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2314/dn

MGG:.....

J
mgg

This draft makes the following substantive changes to 1999 Senate Bill 33:

1. Section 134.7⁴(3) is included to exempt electronic mail service providers when they act as a conduit for electronic mail solicitations.
2. The prohibition for nighttime transmittals applies to the time ^{that} the electronic mail is sent, not received. I made this change because ~~the~~ receipt of an electronic mail message is not always instantaneous and the solicitor has no control over the time that the message will actually be received. In light of this, and the fact that electronic mail solicitations are not as disruptive as telephone solicitations (which are generally subject to a nighttime ban under federal law), do you wish to delete this requirement?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2314/1dn
MGG:kmg:jf

March 7, 2001

This draft makes the following substantive changes to 1999 Senate Bill 33:

1. Section 134.74 (3) is included to exempt electronic mail service providers when they act as a conduit for electronic mail solicitations.
2. The prohibition for nighttime transmittals applies to the time that the electronic mail is sent, not received. I made this change because receipt of an electronic mail message is not always instantaneous and the solicitor has no control over the time that the message will actually be received. In light of this, and the fact that electronic mail solicitations are not as disruptive as telephone solicitations (which are generally subject to a nighttime ban under federal law), do you wish to delete this requirement?

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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5TH FLOOR
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LEGAL SECTION: (608) 266-3561
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March 7, 2001

MAR 7 2001

MEMORANDUM

To: Senator Risser

From: Mary Gibson-Glass, Senior Legislative Attorney

Re: LRB-2314 Unsolicited electronic mail

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____ JACKET FOR ASSEMBLY ~~_____~~ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-3215 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.