



ENGROSSED 2001 SENATE BILL 212

October 29, 2001 - Printed by direction of ASSEMBLY CHIEF CLERK.

1 **AN ACT** *to create* 134.74 of the statutes; **relating to:** restrictions on the
2 transmission of unsolicited electronic mail.

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed 2001 Senate Bill 212 consists of the bill, as affected by the following documents adopted in the senate on October 23, 2001: the bill as affected by Senate Amendment 1, Senate Amendment 2, Senate Amendment 3, and Senate Amendment 4 (as affected by Senate Amendment 1 thereto).

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:
4 **134.74 Restrictions on unsolicited electronic mail. (1) DEFINITIONS.** In
5 this section:
6 (a) "Electronic mail solicitation" means the unsolicited transmission of a
7 message by electronic mail for the purpose of encouraging a person to purchase
8 property, goods, or services.

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1 (b) "Solicitor" means a person who makes an electronic mail solicitation.

2 (2) RESTRICTIONS. No solicitor may make an electronic mail solicitation to a
3 person without the consent of the person solicited unless any of the following applies:

4 (a) The person solicited has or had a business or personal relationship with the
5 solicitor.

6 (b) The electronic mail solicitation contains a statement that it is made for the
7 purpose of encouraging the person to purchase property, goods, or services.

8 This language shall not affect the language inserted by sen. am. 3.

9 (d) The legal name, street address, and electronic mail address of the solicitor.

10 (3) PROHIBITION. No solicitor may make any electronic mail solicitation to a
11 person who has notified the solicitor in writing or by electronic mail, at least 30 days
12 before the solicitor makes the solicitation, that the person does not want to receive
13 electronic mail solicitations.

14 (4) EXCEPTIONS. Subsections (2) and (3) do not apply to a person who provides
15 computer users with access to a computer network and who, as part of that service,
16 transmits electronic mail solicitations, other than electronic mail solicitations
17 prepared by the person providing access to the computer network, to those users.
18 Nothing in this section shall be construed to prohibit a provider of Internet access
19 service from adopting and implementing a more restrictive policy, or entering into
20 and enforcing a more restrictive contract, under which the provider may decline to
21 transmit any electronic mail solicitation that violates that policy or contract.

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

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1 **(6) DAMAGES.** (a) A solicitor who violates sub. (2) or (3) is liable to the person
2 solicited in an amount equal to the person's damages or \$10 for each electronic mail
3 solicitation made to the person in violation of sub. (2) or (3), whichever is greater.

4 (b) In addition to the amounts under par. (a), a person who recovers damages
5 under par. (a) may recover costs and, notwithstanding s. 814.04 (1), attorney fees.

6 **(7) INJUNCTIVE RELIEF.** A court may grant an injunction against a person who
7 violates this section, in addition to awarding damages under sub. (6).

8 **SECTION 2. Initial applicability.**

9 (1) This act first applies to electronic mail solicitations transmitted on the
10 effective date of this subsection.

11

(END)