

**2007 DRAFTING REQUEST**

**Bill**

Received: 12/13/2006

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Pocan (608) 266-8570**

By/Representing: **Craig Trost**

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

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Pocan@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

**Pre Topic:**

No specific pre topic given

**Topic:**

Prohibit offers in the form of bogus checks

**Instructions:**

See Attached

**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>
/?	csundber 01/02/2007	jdyer 01/10/2007		_____			State
/1	csundber 03/02/2007	jdyer 03/02/2007	nntzke 01/10/2007	_____	mbarman 01/10/2007		State
/2	csundber 05/08/2007	jdyer 05/09/2007	nntzke 03/05/2007	_____	cdurst 03/05/2007		State
/3			jfrantze	_____	sbasford	cdurst	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			05/09/2007 _____		05/09/2007	05/09/2007	

FE Sent For: "13" @ intro. 6-14-2007 <END>

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/2		<i>135/9 jld</i>	nmatzke 03/05/2007	_____	cduerst 03/05/2007		

*To 5/9* *To 5/9*

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**<END>**

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			nwn 3/5	nwn/rs 3/5			

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/?	csundber	1/10 jcd	nwn 4/10	nwn 1/10			

FE Sent For:

<END>

**DIRECTORY BILLING, LLC**  
P.O. Box 370  
Boca Raton, FL 33429-0370  
1-800-842-1499

**SUNTRUST BANK**  
BOCA RATON, FL 33432  
64-79611

Ref: # 0120903581  
608-238-9080

281572960  
03/13/06

PAY TO THE ORDER OF **Budget Signs & Specialties**

**Three Dollars and 25/100**\*\*\*\*\*



Attention financial institution:  
Check expires in 60 days.  
Payee's name cannot be altered.  
**VOID IF ALTERED**  
Amount not to exceed \$3.25

\*\*\*\*\*AUTO\*\* 5-DIGIT 53705

Budget Signs & Specialties  
2825 University Ave  
Madison, WI 53705-3631



*Sarah L. Pursglove*  
AUTHORIZED SIGNATURE

⑈ 28 1572960 ⑈ ⑆ 06 1 100790 ⑆ 66076079 1 1765 ⑈

Check Date: 03/13/06

Check No. 281572960

ITEM	DESCRIPTION	AMOUNT
------	-------------	--------

Solicitation for Internet Yellow Page Advertising

Discount Incentive

\$3.25

Check Total \$3.25

Advertiser:

Budget Signs & Specialties  
2825 University Ave  
Madison, WI 53705-3631  
Ref: #0120903581  
608-238-9080

SUNTRUST BANK

See Terms of Offers on back of Sign-Up Check  
000445040

3.25

By depositing this check you confirm that you are 18 years of age and duly authorized by the telephone account owner to make charges to and/or incur charges on the telephone account, you certify you have read and on behalf of your company accept the terms of Offer which were enclosed with this check, authorize Directory Billing, LLC to enroll your company and agree that your company will pay \$48.95 per month for a Preferred Business Listing, you authorize Directory Billing, LLC to bill such fees in advance on your local telephone bill on the OAN bill page or obtain payment of the fees by direct ACH or bank draft from your company's bank account into which this check is deposited or by other methods, according to the Terms Of Offer, you understand that you may cancel or revoke this authorization and receive a full refund by calling 1-800-802-1889 or by mailing written notice to Directory Billing, LLC, 999 NW 51st St., Ste. 200, Boca Raton, FL 33431 within the first 90 days after depositing the check.

**TO ENSURE THAT YOUR DEPOSIT IS CREDITED TO THE PROPER ACCOUNT WRITE OR STAMP ACCOUNT NUMBER BELOW:**

ACCOUNT NUMBER: \_\_\_\_\_

X

**DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE**  
RESERVED FOR FINANCIAL INSTITUTION USE

DO NOT DEPOSIT TO LOCKBOX ACCOUNTS

## Sundberg, Christopher

---

**From:** Trost, Craig  
**Sent:** Thursday, December 21, 2006 3:14 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Check scams

Chris,

Thank you for you patients. Representative Pocan has returned from his vacation and I have had a chance to speak with him about this. He would like the law to be enforced by DATCP by defining this practice as an unfair trade practice.

Furthermore, Representative Pocan would like to ensure that these checks would be banned for solicitation of both businesses and individuals, as this is also a regular scam to get seniors to sign up for credit cards.

Feel free to let me know if you have any further questions.

Craig Trost

---

**From:** Sundberg, Christopher  
**Sent:** Wednesday, December 13, 2006 1:33 PM  
**To:** Trost, Craig  
**Subject:** FW: Check scams

I will be the drafter for this request. How should the provision be enforced? By DATCP? If so, you may consider defining this practice as an unfair method of competition or unfair trade practice. Alternatively, the provision could be enforced by local district attorneys or by private actions for damages.

Chris Sundberg

---

**From:** Gibson-Glass, Mary  
**Sent:** Wednesday, December 13, 2006 12:02 PM  
**To:** Sundberg, Christopher  
**Subject:** FW: Check scams

---

**From:** Trost, Craig  
**Sent:** Monday, December 04, 2006 10:47 AM  
**To:** Gibson-Glass, Mary  
**Subject:** Check scams

A frequent way for businesses to trick other businesses into signing up for a product or service is to send a check with a random dollar amount. Occasionally, the business assumes the incoming check is simply payment from someone and adds the check to their other incoming checks pile. The simple act of inadvertently signing and cashing the check signs the business up for a product or service tha they do not wish to be signed up for.

Attached is a check that follows the scam outlined above. Representative Pocan would like to have legislation drafted to end this practice in Wisconsin and prevent businesses from becoming victimized by this scheme.

Please advise me if you are the correct person at the Legislative Reference Bureau to approach to have this drafted.

<< File: Directory Billing check.pdf >>

Sincerely,



Wanted 1/12/07  
State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-1136/2  
CTS:.....  
EMR  
JLD

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2007 BILL

d-note

Gen

1 AN ACT ...; relating to: unfair trade practices in the solicitation of purchases of  
2 goods or services.✓

*Analysis by the Legislative Reference Bureau*

Current law prohibits unfair methods of competition in business and trade practices and identifies certain practices that violate the prohibition.✓ The Department of Agriculture, Trade and Consumer Protection (DATCP)✓ may issue orders enjoining unfair methods of competition and unfair trade practices, either on its own initiative or upon a complaint by the Department of Justice.✓

This bill specifies that it is an unfair method of competition in business or an unfair trade practice for a person to solicit the purchase of goods or services by the delivery to a recipient in this state of a document that is or appears to be a check payable to the recipient, if the endorsement of the document purports to bind the recipient to purchasing goods or services and the recipient did not request the delivery of the document.✓

For further information see the *state*✓ 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:*

3 SECTION 1. 100.20 (1w)✓ of the statutes is created to read:



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

date

LRB-1136/1dn

CTS:.....

Jld

Representative Pocan:

Please review this draft carefully to ensure it is consistent with your intent. ✓

Should the draft include a provision to the effect that a contract for the sale of goods or services formed by endorsement of an unsolicited check is void and unenforceable?

Christopher T. Sundberg  
Legislative Attorney

Phone: (608) 266-9739

E-mail:

christopher.sundberg@legis.wisconsin.gov

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

LRB-1136/1dn  
CTS:jld:nwn

January 10, 2007

Representative Pocan:

Please review this draft carefully to ensure it is consistent with your intent.

Should the draft include a provision to the effect that a contract for the sale of goods or services formed by endorsement of an unsolicited check is void and unenforceable?

Christopher T. Sundberg  
Legislative Attorney  
Phone: (608) 266-9739  
E-mail:  
[christopher.sundberg@legis.wisconsin.gov](mailto:christopher.sundberg@legis.wisconsin.gov)

## Sundberg, Christopher

---

**From:** Trost, Craig  
**Sent:** Friday, March 02, 2007 1:52 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Check Tie-In Bill Draft

I believe so. Although, she's not a lawyer so she may forward you to their legal counsel.

---

**From:** Sundberg, Christopher  
**Sent:** Friday, March 02, 2007 1:49 PM  
**To:** Trost, Craig  
**Subject:** RE: Check Tie-In Bill Draft

Would Janet Jenkins be the person to call at DATCP?

CS

---

**From:** Trost, Craig  
**Sent:** Friday, March 02, 2007 1:48 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Check Tie-In Bill Draft

Chris,

Thanks for offering to work with the DATCP folks on this. Representative Pocan would like to include their thoughts on this bill into the draft and institute a \$10,000 penalty for violation of this bill. Feel free to get feedback from DATCP on this.

Sincerely,

Craig

---

**From:** Sundberg, Christopher  
**Sent:** Wednesday, February 14, 2007 1:03 PM  
**To:** Trost, Craig  
**Subject:** RE: Check Tie-In Bill Draft

I think that's mostly a policy call and not really a drafting issue. What I will say is that the draft gives DATCP the job of enforcing the law, so it makes sense to consider DATCP's take on the draft.

Whatever you decide to do, I'm happy to work with DATCP folks if you'd like me to.

CS

---

**From:** Trost, Craig  
**Sent:** Wednesday, February 14, 2007 12:48 PM  
**To:** Sundberg, Christopher  
**Subject:** FW: Check Tie-In Bill Draft

Chris,

Does it make sense to incorporate these ideas into our bill?

---

**From:** Jenkins, Janet A - DATCP  
**Sent:** Tuesday, February 06, 2007 7:07 AM

**To:** Trost, Craig  
**Cc:** Moll, Keeley A - DATCP  
**Subject:** Check Tie-In Bill Draft

Craig -

I asked our legal counsel to take a look at the draft bill you sent. His comments follow. Please let me know if you have additional questions or if we can assist further.

Janet

Janet - I have reviewed the proposed bill and agree that the word "check" needs to be defined and the definition should include instruments similar to checks such as money orders. Also, I believe that Wis. Stat. s. 100.20 is not the place to put this prohibition. This law should be placed in a stand-alone section in Wis. Stat. chapter 100. Section 100.20 is copied after the FTC law and is intended to give the department broad authority to identify unfair methods of competition and unfair trade practices in an administrative setting, and to issue administrative orders that put a stop to the unfair practice. Historically, if the legislation declares on its own that a trade practice unfair, it creates a separate section to do so. Wis. Stat. chapter 100 is filled with such consumer protection laws. We should continue to draft our consumer protection laws so as not to confuse the purpose and intent of s. 100.20. As to penalties, the proposed bill does not have criminal or civil forfeiture penalties written into it. I propose that the "stand-alone" section has its own enforcement penalties written into it, including criminal, civil forfeiture, injunctive, and private right actions. Many sections in chapter 100 are written this way. As an alternative, the criminal and civil forfeiture penalties may be referenced in s. 100.26 (with injunctive and private right written into the stand-alone section). This is also common in ch. 100.



# 2007 BILL

or money orders

using unsolicited checks and providing a penalty

regen

1 AN ACT to create 100.20 (1w) of the statutes; relating to: unfair trade practices  
2 in the solicitation of purchases of goods or services.  
soliciting

### Analysis by the Legislative Reference Bureau

Current law prohibits unfair methods of competition in business and trade practices and identifies certain practices that violate the prohibition. The Department of Agriculture, Trade and Consumer Protection (DATCP) may issue orders enjoining unfair methods of competition and unfair trade practices, either on its own initiative or upon a complaint by the Department of Justice.

This bill specifies that it is an unfair method of competition in business or an unfair trade practice for a person to solicit the purchase of goods or services by the delivery to a recipient in this state of a document that is or appears to be a check payable to the recipient, if the endorsement of the document purports to bind the recipient to purchasing goods or services and the recipient did not request the delivery of the document.  
prohibits soliciting

For further information see the *state* 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:

INS  
1-3

3 SECTION 1. 100.20 (1w) of the statutes is created to read:

or money order

**BILL**

① 100.20 (1w) It is an unfair method of competition in business or an unfair trade  
② practice for a person to solicit the purchase of goods or services by delivering to a  
③ recipient in this state a document that is or appears to be a check payable to the  
④ recipient, if the endorsement of the document purports to bind the recipient to  
⑤ purchasing goods or services and the recipient did not request the delivery of the  
⑥ document.

7

(END)

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1136/2ins  
CTS:.....

1           **Insert 1-3:**

2           **SECTION 1.** 100.315<sup>✓</sup> of the statutes is created to read:

3           **100.315 Solicitation of contract using check or money order.**<sup>✓</sup> (1) In this  
4 section,<sup>✓</sup> “check” has the meaning given in s. 217.02 (2).<sup>✓</sup>

5           (2) No person may solicit the purchase of goods or services by delivering to a  
6 recipient in this state a document that is or appears to be a check<sup>✓</sup> payable to the  
7 recipient, if the endorsement of the document purports to bind the recipient to  
8 purchasing goods or services and the recipient did not request the delivery of the  
9 document.

10           (3) The<sup>✓</sup> department shall investigate violations of this section and may bring  
11 an action against a person who violates this section<sup>✓</sup> to recover a forfeiture of not more  
12 than \$10,000<sup>✓</sup> for each violation.

## Sundberg, Christopher

---

**From:** Trost, Craig  
**Sent:** Tuesday, May 08, 2007 4:08 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Fine

Please proceed with the below language but include a 7 calendar day period, rather than the 24-hour period.

---

**From:** Sundberg, Christopher  
**Sent:** Tuesday, May 08, 2007 10:14 AM  
**To:** Trost, Craig  
**Subject:** RE: Fine

Just a reminder: if you're still hoping for a redraft by Wednesday, I'll need to get something to the editors ASAP.

CS

---

**From:** Trost, Craig  
**Sent:** Monday, May 07, 2007 3:36 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Fine

That sounds good. I will run it past the boss and let you know what he says!

---

**From:** Sundberg, Christopher  
**Sent:** Monday, May 07, 2007 3:30 PM  
**To:** Trost, Craig  
**Subject:** RE: Fine

Hmm. Currently, \$100 "for each violation."

How about:

"a forfeiture of not more than \$100 for each solicitation sent in violation of this section, except that the forfeiture may not exceed \$10,000 for each 24-hour period in which the person violates this section."

CS

---

**From:** Trost, Craig  
**Sent:** Monday, May 07, 2007 3:27 PM  
**To:** Sundberg, Christopher  
**Subject:** Fine

How is the do not call list fine assessed? Could that be a helpful idea for us?

*Craig Trost*

Office of Representative Mark Pocan  
PO Box 8951  
Madison, WI 53708  
608.266.8570



## 2007 BILL

Regen

~~#~~ Under the bill, the Department of Agriculture, Trade and Consumer Protection may bring an action against a violator for a forfeiture of \$100 per solicitation, except that the forfeiture may not exceed \$10,000 for each seven-day period in which the person commits a violation.

1 AN ACT to create 100.315 of the statutes; relating to: soliciting purchases of  
2 goods or services using unsolicited checks or money orders and providing a  
3 penalty.

### *Analysis by the Legislative Reference Bureau*

This bill prohibits soliciting the purchase of goods or services by the delivery to a recipient in this state of a document that is or appears to be a check or money order payable to the recipient, if the endorsement of the document purports to bind the recipient to purchasing goods or services and the recipient did not request the delivery of the document.

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

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**BILL**

1           (2) No person may solicit the purchase of goods or services by delivering to a  
 2 recipient in this state a document that is or appears to be a check payable to the  
 3 recipient, if the endorsement of the document purports to bind the recipient to  
 4 purchasing goods or services and the recipient did not request the delivery of the  
 5 document.

6           (3) The department shall investigate violations of this section and may bring  
 7 an action against a person who violates this section to recover a forfeiture of not more  
 8 than \$10,000 for each violation.

(END)

solicitation sent in violation of this section, except that the forfeiture may not exceed \$10,000 for each 7-day period in which the person violates this section.

KEEP  
 100 ✓

Barman, Mike

---

**From:** Trost, Craig  
**Sent:** Wednesday, May 09, 2007 11:37 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 07-1136/3 Topic: Prohibit offers in the form of bogus checks

Please Jacket LRB 07-1136/3 for the ASSEMBLY.