

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2290/P1dn
MDK:jlj:jf

March 25, 1999

Representative Foti:

Please review this bill very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The California law on which this draft is based requires a person to use the letters, "ADV" in a subject line of an electronic mail message to indicate that it is a solicitation. This draft requires instead that a message indicate in the subject that it is a solicitation, but does not specify the use of the letters "ADV". Thus, under this draft, a sender has greater flexibility with respect to how the sender indicates that a message is a solicitation. The draft also uses a more flexible approach in indicating that certain messages are not intended for minors. Is the draft okay, or do you want to follow the more specific approach under the California law?

2. Like LRB-2289/1, a person who violates this bill is subject to a forfeiture of up to \$500 under s. 134.72 (4), stats. In addition, under s. 134.95 (2), stats., a person who violates the bill is subject to a supplemental forfeiture of up to \$10,000 if the recipient of the electronic mail solicitation is an elderly or disabled person and certain other factors are present. Are these penalties okay, or do you want something different?

3. Please be aware that this draft raises the same issues regarding interstate commerce that are discussed in my drafter's note, LRB-2289/1dn.

If you have any questions or redraft instructions, please contact me.

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