

1999 DRAFTING REQUEST

Bill

Received: 04/6/99

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Marlin Schneider (608) 266-0215**

By/Representing: **Judy**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Public Util. - misc.
Trade Regulation**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Prohibit telemarketers from blocking caller identification

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>
/?	kunkemd 04/6/99	ygeller 04/6/99		_____			
/1			haugeca 04/8/99	_____	lrb_docadmin 04/8/99	lrb_docadmin 04/13/99	

FE Sent For:

<END>

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/?	kunkemd	1 4/6 jg	ch 4-8	ch 4-8 hk			

FE Sent For:

<END>

Mark K

Miller, Steve

From: Frydenlund, Judy
Sent: Thursday, April 01, 1999 9:52 AM
To: Miller, Steve
Subject: More Legislation

Steve, I thought we had exhausted our requests for bill drafts. However, a constituent of Marlin's came up with an idea he likes.

Could you please have someone draft a bill to compel telemarketers to show their numbers on Caller ID. Apparently they now have the ability to block their numbers. I do not know how this affects *67. Thanks.

Have a nice Easter. Judy

O-NOTE
1999 BILL

Stays
2755/1

RM NOT
RUN

Regen

1 AN ACT *to renumber* 134.72 (1) (a); *to amend* 767.265 (2r) and 968.01 (1); *to*
2 *repeal and recreate* 134.72 (title); and *to create* 134.72 (1) (ae), 134.72 (1)
3 (ah) and 134.72 (2) (c) of the statutes; **relating to:** use of caller identification
4 blocking services by telephone solicitors.

Analysis by the Legislative Reference Bureau

This bill prohibits a person who makes a telephone solicitation from using a blocking service that withholds the person's name or telephone number from the person who receives the solicitation.

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

- 5 **SECTION 1.** 134.72 (title) of the statutes is repealed and recreated to read:
- 6 **134.72 (title) Telephone and facsimile solicitations.**
- 7 **SECTION 2.** 134.72 (1) (a) of the statutes is renumbered 134.72 (1) (as).
- 8 **SECTION 3.** 134.72 (1) (ae) of the statutes is created to read:

BILL**SECTION 3**

1 134.72 (1) (ae) “Blocking service” means a service that allows a person who
2 makes a telephone call to withhold his or her telephone number or name from a
3 person who receives the telephone call and who uses a caller identification service.

4 **SECTION 4.** 134.72 (1) (ah) of the statutes is created to read:

5 134.72 (1) (ah) “Caller identification service” means a service that allows a
6 person who receives a telephone call to identify the telephone number or name of the
7 person making the telephone call.

8 **SECTION 5.** 134.72 (2) (c) of the statutes is created to read:

9 134.72 (2) (c) *Blocking services.* No person may use a blocking service when
10 making a telephone solicitation.

11 **SECTION 6.** 767.265 (2r) of the statutes is amended to read:

12 767.265 (2r) Upon entry of each order for child support, maintenance, family
13 support or support by a spouse and upon approval of each stipulation for child
14 support, unless the court finds that income withholding is likely to cause the payer
15 irreparable harm or unless s. 767.267 applies, the court, family court commissioner
16 or county child support agency under s. 59.53 (5) shall provide notice of the
17 assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1) (a)
18 (as), or other electronic means to the last-known address of the person from whom
19 the payer receives or will receive money. The notice shall provide that the amount
20 withheld may not exceed the maximum amount that is subject to garnishment under
21 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does
22 not receive the money from the person notified, the court, family court commissioner
23 or county child support agency under s. 59.53 (5) shall provide notice of the
24 assignment to any other person from whom the payer receives or will receive money.

BILL

1 Notice under this subsection may be a notice of the court, a copy of the executed
2 assignment or a copy of that part of the court order directing payment.

3 **SECTION 7.** 968.01 (1) of the statutes is amended to read:

4 968.01 (1) “Facsimile machine” has the meaning given in s. 134.72 (1) ~~(a)~~ (as).

5 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2889/1dn
MDK:jlg:km

March 26, 1999

Stays

-2755/1dn

Representative Schneider

Senator Erpenbach:

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

1. The bill's prohibitions are included in s. 134.72, stats. Therefore, under s. 134.72 (3) (b), stats., the bill prohibits a person in another state from using a blocking service when making a telephone solicitation to a person in this state. Please note that this aspect of the bill may be subject to an attack that it violates the interstate commerce clause of the federal constitution. In general, a court will resolve this issue by asking the following 3 questions:

- 1) Does the legislation pursue a legitimate state end?
- 2) Is the legislation rationally related to that legitimate state end?
- 3) Is the burden imposed on interstate commerce outweighed by the state's interest in enforcing the legislation?

If the court answers "yes" to all 3 questions, it will uphold the legislation. Although I have not researched this issue thoroughly, I think that you should at least be aware of this potential attack. If you want, I would be happy to look more closely at this issue for you.

2. Under s. 134.72 (4), stats., a person who violates the bill is subject to a forfeiture of up to \$500. 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 telephone solicitation is an elderly or disabled person and certain other factors are present. Are these penalties okay, or do you want something different?

3. Another way to regulate in-state telephone solicitors may be to prohibit Wisconsin telephone utilities from allowing them to use blocking services. This approach may have advantages, as well as disadvantages. Please contact me if you are interested in discussing this alternative.

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

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-2755/1dn
MDK:jlg:ch

April 8, 1999

Representative Schneider:

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

1. The bill's prohibitions are included in s. 134.72, stats. Therefore, under s. 134.72 (3) (b), stats., the bill prohibits a person in another state from using a blocking service when making a telephone solicitation to a person in this state. Please note that this aspect of the bill may be subject to an attack that it violates the interstate commerce clause of the federal constitution. In general, a court will resolve this issue by asking the following 3 questions:

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

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

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 4/8/99

To: Representative Schneider

Relating to LRB drafting number: LRB-2755

Topic

Prohibit telemarketers from blocking caller identification

Subject(s)

Public Util. - misc., Trade Regulation

1. **JACKET** the draft for introduction

MSJ

in the **Senate** _____ or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached _____.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Mark D. Kunkel, Legislative Attorney
Telephone: (608) 266-0131