

## 1999 ASSEMBLY BILL 403

July 8, 1999 - Introduced by Representatives MEYER, MUSSER, GRONEMUS, BLACK, STASKUNAS, MILLER, F. LASEE, GUNDERSON, AINSWORTH, TURNER and BOCK, cosponsored by Senators RISSER, ROSENZWEIG, MOEN, HUELSMAN, SCHULTZ, FARROW and CLAUSING. Referred to Committee on Information Policy.

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

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### *Analysis by the Legislative Reference Bureau*

This bill, with certain exceptions, imposes liability upon a person who sends electronic mail to a person, without his or her consent, for the purpose of soliciting the person to purchase property, goods or services. The exceptions under the bill permit a solicitor to send an electronic mail solicitation if the electronic mail is sent to a person with whom the solicitor has or had a business or personal relationship. The exceptions also permit a solicitor to send an electronic mail solicitation if the solicitation contains a statement that it is made for the purpose of encouraging the person to purchase property, goods or services. If a solicitor is permitted to make an electronic mail solicitation under one of the exceptions, the solicitor must provide in the electronic mail solicitation the solicitor's name and address, a notice that the person solicited may request that the solicitations be discontinued and a statement of the procedures a person may use to request that the solicitations be discontinued. If the solicitor receives a request to discontinue sending the electronic mail solicitations, but fails to do so, the solicitor is liable to the person solicited. The 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 bill provides that a person who receives an electronic mail solicitation made in violation of the provisions of the bill may recover the amount of the person's

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damages or an amount equal to \$10 for each electronic mail solicitation the person received from the solicitor, whichever is greater.

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

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

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

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

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

8           **(2) PROHIBITIONS.** (a) Subject to sub. (3), a solicitor who makes an electronic  
9 mail solicitation to a person without the consent of the person solicited is liable to the  
10 person solicited for damages under sub. (6) unless any of the following applies:

11           1. The person solicited has or had a business or personal relationship with the  
12 solicitor.

13           2. The electronic mail solicitation contains a statement that it is made for the  
14 purpose of encouraging the person to purchase property, goods or services.

15           (b) A solicitor who makes an electronic mail solicitation to a person from whom  
16 the solicitor has received a request that the solicitor discontinue making electronic  
17 mail solicitations, is liable to the person solicited under sub. (6).

18           **(3) INFORMATION REQUIRED.** A solicitor who makes an electronic mail solicitation  
19 under sub. (2) (a) is liable to the person solicited for damages under sub. (6) unless  
20 the electronic mail solicitation clearly and conspicuously contains all of the following:

21           (a) The legal name, street address and electronic mail address of the solicitor.

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1 (b) A notice that the person solicited may request that the solicitor discontinue  
2 making electronic mail solicitations to the person solicited.

3 (c) A statement of the procedures a person may use to request that the solicitor  
4 discontinue making electronic mail solicitations to the person.

5 **(4) EXCEPTIONS.** Subsections (2) and (3) do not apply to a person who provides  
6 computer users with access to a computer network and who, as part of that service,  
7 transmits electronic mail, other than electronic mail prepared by the person  
8 providing access to the computer network, to those users.

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

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

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

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

**SECTION 2. Initial applicability.**

18 (1) This act first applies to electronic mail messages transmitted on the  
19 effective date of this subsection.  
20

21 (END)