

1999 DRAFTING REQUEST**Bill**Received: **01/25/2000**Received By: **kunkemd**Wanted: **As time permits**

Identical to LRB:

For: **Rick Skindrud (608) 266-3520**By/Representing: **Himself**This file may be shown to any legislator: **NO**Drafter: **kunkemd**

May Contact:

Ah. Drafters:

Subject: **Trade Regulation**Extra Copies: **MGG, RNK**

Pre Topic:

No specific pre topic given

Topic:

Prohibiting certain automatic dialing in telemarketing

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>Reauired</u>
/?	kunkemd 01/25/2000	chanaman 01/25/2000		_____			State
/P1	kunkemd 02/02/2000	chanaman 02/03/2000	kfollet 01/26/2000	_____	lrb-docadmin 01/26/2000		State
/1			hhagen 02/03/2000	_____	lrb-docadmin 02/03/2000	lrb-docadmin 02/09/2000	

FE Sent For:

<END>

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/P1		<i>cmt</i> /1	kfollet 01/26/2000	_____	lrb_docadmin 01/26/2000		
FE Sent For:		<i>2/3</i> <i>RD</i>					

<END>

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FE Sent For:		1/25					

<END>

LEVEL 1 - 1 OF 3 SECTIONS

LEXIS LAW PUBLISHING'S CODE OF FEDERAL REGULATIONS
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*** THIS SECTION IS CURRENT THROUGH THE DECEMBER 31, 1999 ISSUE OF ***
*** THE FEDERAL REGISTER ***

TITLE 47 -- TELECOMMUNICATION
CHAPTER I -- FEDERAL COMMUNICATIONS COMMISSION
SUBCHAPTER B -- COMMON CARRIER SERVICES
PART 64 -- MISCELLANEOUS RULES RELATING TO COMMON CARRIERS
SUBPART L -- RESTRICTIONS ON TELEPHONE SOLICITATION

47 CFR 64.1200

§ 64.1200 Delivery restrictions.

(a) No person may:

(1) Initiate any telephone call (other than a call made for emergency purposes or made with the prior express consent of the called party) using an automatic telephone dialing system or an artificial or prerecorded voice,

(i) To any emergency telephone line, including any 911 line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency;

(ii) To the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

(iii) To any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

(2) Initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by § 64.1200(c) of this section.

(3) Use a telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine.

(4) Use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

(b) For the purpose of § 64.1200(a) of this section, the term emergency purposes means calls made necessary in any situation affecting the health and safety of consumers.

(c) The term telephone call in § 64.1200(a)(2) of this section shall not include a call or message by, or on behalf of, a caller:

47CFR64.1200

(1) That is not made for a commercial purpose,
(2) That is made for a commercial purpose but does not include the transmission of any unsolicited advertisement,

(3) To any person with whom the caller has an established business relationship at the time the call is made, or

(4) Which is a tax-exempt nonprofit organization.

(d) All artificial or prerecorded telephone messages delivered by an automatic telephone dialing system shall:

(1) At the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and

(2) During or after the message, state clearly the telephone number (other than that of the autodialer or prerecorded message player which placed the call) or address of such business, other entity, or individual.

(e) No person or entity shall initiate any telephone solicitation to a residential telephone subscriber:

(1) Before the hour of 8 a.m. or after 9 p.m. (local time at the called party's location), and

(2) Unless such person or entity has instituted procedures for maintaining a list of persons who do not wish to receive telephone solicitations made by or on behalf of that person or entity. The procedures instituted must meet the following minimum standards:

(i) Written policy. Persons or entities making telephone solicitations must have a written policy, available upon demand, for maintaining a do-not-call list.

(ii) Training of personnel engaged in telephone solicitation. Personnel engaged in any aspect of telephone solicitation must be informed and trained in the existence and use of the do-not-call list.

(iii) Recording, disclosure of do-not-call requests. If a person or entity making a telephone solicitation (or on whose behalf a solicitation is made) receives a request from a residential telephone subscriber not to receive calls from that person or entity, the person or entity must record the request and place the subscriber's name and telephone number on the do-not-call list at the time the request is made. If such requests are recorded or maintained by a party other than the person or entity on whose behalf the solicitation is made, the person or entity on whose behalf the solicitation is made will be liable for any failures to honor the do-not-call request. In order to protect the consumer's privacy, persons or entities must obtain a consumer's prior express consent to share or forward the consumer's request not to be called to a party other than the person or entity on whose behalf a solicitation is made or an affiliated entity.


(iv) Identification of telephone solicitor. A person or entity making a telephone solicitation must provide the called party with the name of the

*individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted. If a person or entity makes a solicitation using an artificial or prerecorded voice message transmitted by an autodialer, the person or entity must provide a telephone number other than that of the autodialer or prerecorded message player which placed the call. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

(v) Affiliated persons or entities. In the absence of a specific request by the subscriber to the contrary, a residential subscriber's do-not-call request shall apply to the particular business entity making the call (or on whose behalf a call is made), and will not apply to affiliated entities unless the consumer reasonably would expect them to be included given the identification of the caller and the product being advertised.

(vi) Maintenance of do-not-call lists. A person or entity making telephone solicitations must maintain a record of a caller's request not to receive future telephone solicitations. A do not call request must be honored for 10 years from the time the request is made.

(f) As used in this section:

 (1) The terms automatic telephone dialing system and autodialer mean equipment which has the capacity to store or produce telephone numbers to be called using a random or sequential number generator and to dial such numbers.

(2) The term telephone facsimile machine means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

(3) The term telephone solicitation means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message:

(i) To any person with that person's prior express invitation or permission;

(ii) To any person with whom the caller has an established business relationship; or

(iii) By or on behalf of a tax-exempt nonprofit organization.

(4) The term established business relationship means a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential subscriber regarding products or services offered by such person or entity, which relationship has not been previously terminated by either party.

(5) The term unsolicited advertisement means any material advertising the

<commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

HISTORY:

[57 FR 48335, Oct. 23, 1992; 57 FR 53293, Nov. 9, 1992; 60 FR 42069, Aug. 15, 1995]

AUTHORITY:

AUTHORITY NOTE APPLICABLE TO ENTIRE PART:

47 U.S.C. 151, 154, 201, 202, 205, 218-220, and 332 unless otherwise noted. Interpret or apply §§ 201, 218, 225, 226, 227, 229, 332, 48 Stat. 1070, as amended. 47 U.S.C. 201-204, 218, 225, 226, 227, 229, 332, 501 and 503

NOTES:

[EFFECTIVE DATE NOTE: 60 FR 42069, Aug. 15, 1995, which revised paragraphs (e)(2)(iv), (e)(2)(vi), and (f)(3)(iii), is effective Sept. 14, 1995.1

NOTES APPLICABLE TO ENTIRE CHAPTER:

SUPPLEMENTAL PUBLICATIONS:

Annual Reports of the Federal Communications Commission to Congress.

FCC Record of Orders and Decisions.

Communications Act of 1934 (with amendments and index thereto), Recap. Version to May 1989.

Study Guide and Reference Material for Commercial Radio Operator Examinations, May 1987 edition.

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter I Petitions for Reconsideration, see: 51 FR 2501, 6119, 11037, 11039, 44478, (1986); 52 FR 23305, 23551 (1987); 53 FR 4624, 8903, 13272, 17040, 40894 (1988); 54 FR 13689, 18889, 39152, 49995 (1989); 55 FR 7494, 13907, 14285, 50181, 52172 (1990); 56 FR 48442, 57823 (1991); 57 FR 3952, 27367 (1992); 58 FR 14239, Mar. 16, 1993; 58 FR 14328, Mar. 17, 1993; 58 FR 37867, July 14, 1993; 59 FR 40365, July 28, 1993; 58 FR 45842, Aug. 31, 1993; 58 FR 48459, Sept. 16, 1993; 58 FR 51251, Oct. 1, 1993; 58 FR 63086, Nov., 30, 1993; 59 FR 13661, Mar. 23, 1994; 59 FR 28014, May 31, 1994; 59 FR 37439, July 22, 1994; 59 FR 44272, Aug. 26, 1994; 59 FR 44340, Aug. 29, 1994; 59 FR 55594, Nov. 8, 1994; 59 FR 66254, Dec. 23, 1994; 60 FR 3099, Jan. 13, 1995; 60 FR 3773, Jan. 19, 1995; 60 FR 31257, 31258, June 14, 1995; 60 FR 43981, Aug. 24, 1995; 64 FR 52464, Sept. 29, 1999.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter I Final Reports, see: 59 FR 35631, July 13, 1994.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter I Periodic Reviews of Regulations, see: 59 FR 3633, Jan. 25, 1994.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter I Policy Statements, see: 51 FR 9794, 20975 (1986); 52 FR 16386 (1987); 53 FR 13270, 15557 (1988); 56 FR 56937 (1991); 61 FR 11163, Mar. 19, 1996; 62 FR 34634, 34648, June 28, 1997.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Chapter 1 Orders, see : 51 FR 4918 (1986); 53 FR 501 (1988); 55 FR 7898 (1990); 57 FR 3133, 6481, 33275 (1992); 58 FR 14161 (1993); 59 FR 61284 (1994); 60 FR 18778, 35507, 53544, 53877 (1995); 61 FR 2452, Jan. 26, 1996; 61 FR 14672, Apr. 3, 1996; 61 FR 26466, May 28, 1996; 61 FR 30531, June 17, 1996; 61 FR 35964, July 9, 1996; 62 FR 7690, 7720, Feb. 20, 1997; 62 FR 16093, 16099, Apr. 4, 1997; 62 FR 36216, July 7, 1997; 62 FR 56111, Oct. 29, 1997; 63 FR 42275, Aug. 7, 1998; 63 FR 45956, Aug. 28, 1998; 64 FR 54561, Oct. 7, 1999; 64 FR 61527, Nov. 12, 1999; 64 FR 68053,

Dec. 6, 1999.1

NOTES APPLICABLE TO ENTIRE PART:

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Memorandum Opinion and Orders, see: 54 FR 27467, 27468, 29022, 50623 (1989); 57 FR 2842, 62481 (1992); 58 FR 11195, Feb. 24, 1993; 58 FR 21408, Apr. 21, 1993; 58 FR 53663, Oct. 18, 1993; 60 FR 7131, Feb. 7, 1995; 60 FR 56124, Nov., 7, 1995; 62 FR 46447, Sept. 3, 1997; 64 FR 4999, Feb. 2, 1999.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Report and Orders, see: 52 FR 20714 (1987); 54 FR 3453, 12199 (1989); 57 FR 37106 (1992); 59 FR 26756, Mar. 24, 1994; 62 FR 8633, Feb. 26, 1997; 62 FR 19056, 19057, Apr. 18, 1997; 62 FR 19686, Apr. 23, 1997; 62 FR 47369, Sept. 9, 1997; 63 FR 45134, Aug. 24, 1998; 63 FR 54379, Oct. 9, 1998.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Requests for Comments, see: 59 FR 19118, Apr. 21, 1994; 63 FR 36191, July 2, 1998.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Comment time extended, see: 59 FR 19119, Apr. 21, 1994; 59 FR 39300, Aug. 2, 1994.]

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Declaratory rulings, see: 61 FR 8879, Mar. 6, 1996; 61 FR 36653, July 12, 1996.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Waivers; see : 51 FR 24350 (1986); 61 FR 20746, May 8, 1996; 62 FR 24583, 24585, May 6, 1997 ; 62 FR 58686, Oct. 30, 1997; 62 FR 60034, Nov. 6, 1997; 62 FR 64759, Dec. 9, 1997; 63 FR 37069, July 9, 1998.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Order on Reconsideration, see: 62 FR 55762, Oct. 28, 1997.1

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 64 Policy Statement, see: 64 FR 55164, Oct. 12, 1999.1

1265 words

WED
1/26
4:00pm

D-NOTE

-4313/P1

PRELIMINARY DRAFT - **NOT READY FOR** INTRODUCTION

RM
NOT
RUN

Revised

1 **AN ACT to renumber** 134.72 (1); **to amend** 767.265 (2r) and 968.01 (1); and **to**

2 **create** 134.72 (1) (ag) and 134.72 (2) (am) of the statutes; **relating to:**

3 prohibiting certain uses of automatic telephone dialing systems in telephone

4 solicitations.

Analysis by the Legislative Reference Bureau

Under current law, a person may not use an electronically prerecorded message in a telephone solicitation without the consent of the person called. This prohibition applies to any interstate telephone solicitation that is received by a person in this state and to any intrastate telephone solicitation. A person who violates this prohibition is subject to a forfeiture of up to \$500. Under certain circumstances, a person may be subject to a supplemental forfeiture of up to \$10,000 if the telephone solicitation was directed against an elderly person or a disabled person.

This bill prohibits a person also from using an automatic telephone dialing system in making a telephone solicitation if the system is used in such a way that two or more telephone lines are engaged simultaneously. An "automatic telephone dialing system" means equipment that has the capacity to store or produce telephone numbers that are called using a random or sequential number generator and to call such telephone numbers. The bill's prohibition applies to the same interstate and intrastate telephone solicitations that are subject to the prohibition under current law regarding electronically prerecorded messages. In addition, the same forfeiture and supplemental forfeiture apply to the bill's prohibition.

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:

1 **SECTION 1.** 134.72 (1) of the statutes is renumbered 134.72 (1) (ar).

2 **SECTION 2.** 134.72 (1) (ag) of the statutes is created to read:

3 134.72 (1) (ag) "Automatic telephone dialing system" means equipment that
4 has the capacity to store or produce telephone numbers that are called using a
5 random or sequential number generator and to call such telephone numbers.

6 **SECTION 3.** 134.72 (2) (am) of the statutes is created to read:

7 134.72 (2) (am) *Automatic dialing.* No person may use an automatic telephone
8 dialing system in such a way that 2 or more telephone lines are engaged
9 simultaneously.

10 **SECTION 4.** 767.265 (2r) of the statutes, as affected by 1999 Wisconsin Act 9, is
11 amended to read:

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

1 department or its designee, whichever is appropriate, does not receive the money
2 from the person notified, the court, family court commissioner or county child
3 support agency under s. 59.53 (5) shall provide notice of the assignment to any other
4 person from whom the payer receives or will receive money. Notice under this
5 subsection may be a notice of the court, a copy of the executed assignment or a copy
6 of that part of the court order directing payment.

7 **SECTION 5.** 968.01 (1) of the statutes is amended to read:

8 968.01 (1) "Facsimile machine" has the meaning given in s. 134.72 (1) ~~(a)~~ (ar).

9 **(END)**

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-42877/P1dn
MDK:cmh:hmh

~~January 24, 2000~~

new
date

-4313/P1dn

Senator Darling
Representative Skindrud
= Skindrud
= Skindrud

Please review this preliminary draft to make sure that it achieves your intent. Also, please note the following:

1. The draft's definition and prohibition are based, in part, on FCC regulations set forth at 47 CFR 64.1200. Note that the federal regulations are narrower in scope than the draft because the federal regulations prohibit using automatic telephone dialing systems in such a way that 2 or more telephone lines of a multi-line business are engaged simultaneously. This draft does not contain the restriction that the 2 or more lines must be of a multi-line business.

2. I added the draft's prohibition in s. 134.72, stats., because that section already prohibits telephone solicitations using electronically prerecorded messages. However, note that DATCP does not enforce the prohibitions in s. 134.72, stats. Instead, the prohibitions in s. 134.72, stats., are enforced by district attorneys. If you want DATCP to enforce the draft's prohibition, please let me know so that I can incorporate the draft's prohibition in ch. 100, stats., which is enforced by DATCP.

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-4313/P1dn
MDK:cmh:kjf

January 26, 2000

Representative Skindrud:

Please review this preliminary draft to make sure that it achieves your intent. Also, please note the following:

1. The draft's definition and prohibition are based, in part, on FCC regulations set forth at **47** CFR 64.1200. Note that the federal regulations are narrower in scope than the draft because the federal regulations prohibit using automatic telephone dialing systems in such a way that 2 or more telephone lines *of a multi-line business* are engaged simultaneously. This draft does not contain the restriction that the 2 or more lines must be of a multi-line business.

2. I added the draft's prohibition in s. 134.72, stats., because that section already prohibits telephone solicitations using electronically prerecorded messages. However, note that DATCP does not enforce the prohibitions in s. 134.72, stats. Instead, the prohibitions in s. 134.72, stats., are enforced by district attorneys. If you want DATCP to enforce the draft's prohibition, please let me know so that I can incorporate the draft's prohibition in ch. 100, stats., which is enforced by DATCP.

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

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-O 13 1
R-mail: Mark.Kunkel@legis.state.wi.us

D-NOTE

214
Fii by
4:00

1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM
NOT
RUN

this prohibition
is also
enforced by
DATEP.

gen. cat.

1 AN ACT to renumber 134.72 (1) to amend 767.265 (2r) and 968.01 (1); and to
2 create 134.72 (1) (ag) and 134.72 (2) (am) of the statutes, relating to:
3 prohibiting certain use of automatic telephone dialing systems in telephone
4 solicitations. and providing a penalty

Local district
= attorneys enforce
this prohibition.

Analysis by the Legislative Reference Bureau

Under current law, a person may not use an electronically prerecorded message in a telephone solicitation without the consent of the person called. This prohibition applies to any interstate telephone solicitation that is received by a person in this state and to any intrastate telephone solicitation. A person who violates this prohibition is subject to a forfeiture of up to \$500. Under certain circumstances, a person may be subject to a supplemental forfeiture of up to \$10,000 if the telephone solicitation was directed against an elderly person or a disabled person.

This bill prohibits a person also from using an automatic telephone dialing system in making a telephone solicitation if the system is used in such a way that two or more telephone lines are engaged simultaneously. An "automatic telephone dialing system" means equipment that has the capacity to store or produce telephone numbers that are called using a random or sequential number generator and to call such telephone numbers. ~~The bill's~~ prohibition applies to the same interstate and intrastate telephone solicitations that are subject to the prohibition under current law regarding electronically prerecorded messages. In addition, the same forfeiture and supplemental forfeiture apply to the bill's prohibition.

requires the department of agriculture, trade and consumer protection (DATEP) to enforce the prohibition, instead of local district attorneys. In addition, the bill

INSERT 2-1

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:

1 SECTION 1. ~~134.72 (1) of the statutes is renumbered 134.72 (1) (ar).~~

2 SECTION 2. ~~134.72 (1) (ag) of the statutes is created to read:~~

3 ~~134.72 (1) (ag)~~ (a) "Automatic telephone dialing system" means equipment that
4 has the capacity to store or produce telephone numbers that are called using a
5 random or sequential number generator and to call such telephone numbers.

6 SECTION 3. ~~134.72 (2) (am) of the statutes is created to read:~~

7 ~~134.72 (2) (am)~~ (b) Automatic dialing No person may use an automatic telephone
8 dialing system in such a way that 2 or more telephone lines are engaged
9 simultaneously. INSERT 2-9 telephone solicitations

10 SECTION 4. 767.265 (2r) of the statutes, as affected by 1999 Wisconsin Act 9, is
11 amended to read:

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

1 department or its designee, whichever is appropriate, does not receive the money
2 from the person notified, the court, family court commissioner or county child
3 support agency under s. 59.53 (5) shall provide notice of the assignment to any other
4 person from whom the payer receives or will receive money. Notice under this
5 subsection may be a notice of the court, a copy of the executed assignment or a copy
6 of that part of the court order directing payment.

7 **SECTION 5.** 968.01 (1) of the statutes is amended to read:

8 968.01 (1) "Facsimile machine" has the meaning given in s. 134.72 (1) (a) (ar).

9

(END)

1 **INSERT 2-1:**

2 **SECTION 1.** 100.264 (2) (intro.) of the statutes is amended to read:

3 100.264 (2) **SUPPLEMENTAL FORFEITURE.** (intro.) If a fine or a forfeiture is
4 imposed on a person for aviolation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
5 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 ~~or~~, 100.46 [✓] or 100.52 or
6 a rule promulgated under one of those sections, the person shall be subject to a
7 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
8 defendant, for which the violation was imposed, was perpetrated against an elderly
9 person or disabled person and if the court finds that any of the following factors is
10 present:

11 History: 1995 a. 382

11 **SECTION 2.** 100.52[✓] of the statutes is created to read:

12 **100.52 Telephone solicitations. (1) DEFINITIONS.** In this section:

13 **INSERT 2-9:**

14 ~~**SECTION 3.** 100.52 (4) of the statutes is created to read:~~

15 (Q) **100.52** (4) **TERRITORIAL APPLICATION.** This section applies to a[✓] interstate
16 telephone solicitation received by a person in this state and to any intrastate
17 telephone solicitation.


18 ~~**SECTION 4.** 100.52 (5) of the statutes is created to read:~~

19 (Q) **100.52** (5) **PENALTY.** A person who violates this section may forfeit no more than
20 \$500 for each violation.

21 **SECTION 5.** 134.72 (title) of the statutes is amended to read:

22 134.72 (title) **Prohibition of certain unsolicited messages by telephone**
23 **or facsimile machine.**

History: 1977 c. 301; 1989 a. 336; 1995 a. 351; 1997 a. 27.



1 SECTION 6. 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (b).

2 SECTION 7. 134.72 (2) (a) of the statutes is renumbered 100.52 (3).

3 SECTION 8. 134.72 (2) (b) (title) of the statutes is repealed.

4 SECTION 9. 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72
5 (2) (b), as renumbered, is amended to read:

6 134.72 (2) (b) Notwithstanding ~~subd. 1.~~ par. (a). a person may not make a
7 facsimile solicitation to a person who has notified the facsimile solicitor in writing
8 or by facsimile transmission that the person does not want to receive facsimile
9 solicitation.

History: 1977 c. 301; 1989 a. 336; 1995 a. 351; 1997 a. 27.

10 SECTION 10. 134.72 (3) (a) of the statutes is amended to read:

11 134.72 (3) (a) *Intrastate*. This section applies to any ~~intrastate telephone~~
12 ~~solicitation or~~ intrastate facsimile solicitation.

History: 1971 c. 301; 1989 a. 336; 1995 a. 351; 1997 a. 27.

13 SECTION 11. 134.72 (3) (b) of the statutes is amended to read:

14 134.72 (3) (b) *Interstate*. This section applies to any ~~interstate telephone~~
15 ~~solicitation or~~ interstate facsimile solicitation, received by a person in this state.

History: 1977 c. 301; 1989 a. 336; 1995 a. 351; 1997 a. 27.

(END OF INSERT)

strike

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-43 13/1dn
MDK:.....

cmh

✓

Representative Skindrud:

This bill is identical to the previous version, except that DATCP, rather than local district attorneys, enforce the prohibition on automatic telephone dialing systems. In addition, the bill requires DATCP to enforce a current law prohibition on using prerecorded messages in telephone solicitations.

Mark D. Kunkel
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4313/1dn
MDK:cmh:hmh

February 3, 2000

Representative Skindrud:

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Mark D. Kunkel
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**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: 02/03/2000

To: Representative Skindrud

Relating to LRB drafting number: LRB-43 13

Topic

Prohibiting certain automatic dialing in telemarketing

Subject(s)

Trade Regulation

1. **JACKET** the draft for introduction _____

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) 266-013 1