

1999 SENATE BILL 267

October 28, 1999 – Introduced by Senators CLAUSING, ERPENBACH, JAUCH, DECKER, A. LASEE, ROESSLER, MOEN and DARLING, cosponsored by Representatives BLACK, SCHNEIDER, LASSA, BOCK, RYBA, M. LEHMAN, KREUSER, MUSSER, BALOW, PLOUFF, HASENOHRL, STEINBRINK and SUDER. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

1 **AN ACT to renumber** 134.72 (1) (a) and 134.72 (2) (a); **to renumber and amend**
 2 134.72 (4); **to amend** 134.72 (2) (a) (title), 767.265 (2r) and 968.01 (1); **to repeal**
 3 **and recreate** 134.72 (title); and **to create** 20.155 (1) (jr), 134.72 (1) (ae), 134.72
 4 (1) (am), 134.72 (1) (bg), 134.72 (1) (bm), 134.72 (1) (bs), 134.72 (1) (d), 134.72
 5 (1) (d), 134.72 (1g), 134.72 (1r), 134.72 (2) (a) 2., 134.72 (2) (a) 3., 134.72 (2) (a)
 6 4. and 134.72 (4) (b) of the statutes; **relating to:** prohibiting certain telephone
 7 solicitations, requiring the registration of telephone solicitors, requiring the
 8 exercise of rule-making authority, making an appropriation and providing a
 9 penalty.

Analysis by the Legislative Reference Bureau

This bill requires the department of agriculture, trade and consumer protection (DATCP) to establish a nonsolicitation directory that includes listings for residential telephone customers who do not wish to receive telephone solicitations. The bill requires DATCP to promulgate rules establishing requirements and procedures for a residential customer to request a listing in the directory. DATCP must provide copies of the directory to the public free of charge and must also make the directory available to the public in a manner that facilitates public access to the directory. The

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bill prohibits a telephone solicitor from making a telephone solicitation to a residential customer if the directory that is available to the public at the time of solicitation includes a listing for the customer.

This bill also requires DATCP to promulgate rules that require a telephone solicitor to register annually with DATCP and pay an annual registration fee. The amount of the fee must be based on the cost for DATCP to establish and maintain the nonsolicitation directory. The bill prohibits a telephone solicitor that is not registered from requiring an employe to make a telephone solicitation to a person in this state.

A telephone solicitor who violates the bill's prohibitions is subject to a forfeiture of up to \$10,000. A telephone solicitor is also subject to this forfeiture amount if the telephone solicitor requires an employe to violate a provision under current law that prohibits a person from using an electronically prerecorded message in a telephone solicitation without the consent of the person called.

For further information see the *state and local* 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.** 20.155 (1) (jr) of the statutes is created to read:

2 20.155 **(1)** (jr) *Telephone solicitation regulation.* All moneys received from
3 telephone solicitor registration fees paid under the rules promulgated under s.
4 134.72 (1r) for establishing and maintaining the nonsolicitation directory under s.
5 134.72 (1g).

6 **SECTION 2.** 134.72 (title) of the statutes is repealed and recreated to read:

7 **134.72 (title) Telephone and facsimile solicitations.**

8 **SECTION 3.** 134.72 (1) (a) of the statutes is renumbered 134.72 (1) (as).

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

10 134.72 **(1)** (ae) “Basic local exchange service” has the meaning in s. 196.01 (1g).

11 **SECTION 5.** 134.72 (1) (am) of the statutes is created to read:

12 134.72 **(1)** (am) “Department” means the department of agriculture, trade and
13 consumer protection.

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1 **SECTION 6.** 134.72 (1) (bg) of the statutes is created to read:

2 134.72 (1) (bg) “Nonsolicitation directory” means the directory established in
3 rules promulgated by the department under sub. (1g) (b).

4 **SECTION 7.** 134.72 (1) (bm) of the statutes is created to read:

5 134.72 (1) (bm) “Residential customer” means an individual who is furnished
6 with basic local exchange service by a telecommunications utility.

7 **SECTION 8.** 134.72 (1) (bs) of the statutes is created to read:

8 134.72 (1) (bs) “Telecommunications utility” has the meaning given in s. 196.01
9 (10).

10 **SECTION 9.** 134.72 (1) (d) of the statutes is created to read:

11 134.72 (1) (d) “Telephone solicitor” means a person that employs an individual
12 to make a telephone solicitation.

13 **SECTION 10.** 134.72 (1g) of the statutes is created to read:

14 134.72 (1g) NONSOLICITATION DIRECTORY LISTING. (a) Upon a request by a
15 residential customer, the department shall include in the nonsolicitation directory
16 a listing indicating that the residential customer does not want to receive any
17 telephone solicitation.

18 (b) The department shall promulgate rules establishing a directory that
19 includes listings of residential customers who do not wish to receive telephone
20 solicitations. The rules promulgated under this paragraph shall establish
21 requirements and procedures for a residential customer to request a listing in the
22 directory.

23 (c) The department shall provide copies of the nonsolicitation directory to the
24 public free of charge and make the nonsolicitation directory available to the public

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1 in a manner that, as determined by the department, facilitates public access to the
2 directory.

3 **SECTION 11.** 134.72 (1r) of the statutes is created to read:

4 134.72 (1r) REGISTRATION OF TELEPHONE SOLICITORS. The department shall
5 promulgate rules that require any telephone solicitor who requires an employe to
6 make a telephone solicitation to a person in this state to register with the department
7 on an annual basis and pay an annual registration fee to the department. The
8 amount of the registration fee shall be based on the cost of establishing and
9 maintaining the nonsolicitation directory.

10 **SECTION 12.** 134.72 (2) (a) (title) of the statutes is amended to read:

11 134.72 (2) (a) (title) *Prerecorded telephone Telephone solicitation.*

12 **SECTION 13.** 134.72 (2) (a) of the statutes is renumbered 134.72 (2) (a) 1.

13 **SECTION 14.** 134.72 (2) (a) 2. of the statutes is created to read:

14 134.72 (2) (a) 2. A telephone solicitor may not require an employe to make a
15 telephone solicitation to a person in this state unless the telephone solicitor is
16 registered with the department under the rules promulgated under sub. (1r).

17 **SECTION 15.** 134.72 (2) (a) 3. of the statutes is created to read:

18 134.72 (2) (a) 3. A person may not make a telephone solicitation to a residential
19 customer if the nonsolicitation directory that is available to the public at the time of
20 the telephone solicitation includes a listing for the residential customer.

21 **SECTION 16.** 134.72 (2) (a) 4. of the statutes is created to read:

22 134.72 (2) (a) 4. A telephone solicitor may not require an employe to make a
23 telephone solicitation that violates subd. 1. or 3.

24 **SECTION 17.** 134.72 (4) of the statutes is renumbered 134.74 (4) (a) and
25 amended to read:

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1 134.74 (4) (a) ~~A~~ Except as provided in par. (b), a person who violates this
2 section may forfeit ~~up to~~ no more than \$500.

3 **SECTION 18.** 134.72 (4) (b) of the statutes is created to read:

4 134.72 (4) (b) A telephone solicitor that violates sub. (2) (a) 4. may forfeit no
5 more than \$10,000.

6 **SECTION 19.** 767.265 (2r) of the statutes, as affected by 1997 Wisconsin Act 191,
7 section 414, is amended to read:

8 767.265 (2r) Upon entry of each order for child support, maintenance, family
9 support or support by a spouse and upon approval of each stipulation for child
10 support, unless the court finds that income withholding is likely to cause the payer
11 irreparable harm or unless s. 767.267 applies, the court, family court commissioner
12 or county child support agency under s. 59.53 (5) shall provide notice of the
13 assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1) ~~(a)~~
14 (as), or other electronic means to the last-known address of the person from whom
15 the payer receives or will receive money. The notice shall provide that the amount
16 withheld may not exceed the maximum amount that is subject to garnishment under
17 15 USC 1673 (b) (2). If the department or its designee, whichever is appropriate, does
18 not receive the money from the person notified, the court, family court commissioner
19 or county child support agency under s. 59.53 (5) shall provide notice of the
20 assignment to any other person from whom the payer receives or will receive money.
21 Notice under this subsection may be a notice of the court, a copy of the executed
22 assignment or a copy of that part of the court order directing payment.

23 **SECTION 20.** 968.01 (1) of the statutes is amended to read:

24 968.01 (1) “Facsimile machine” has the meaning given in s. 134.72 (1) ~~(a)~~ (as).

25

(END)