

1999 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB267)

Received: **01/21/2000**

Received By: **kunkemd**

Wanted: **Today**

Identical to LRB:

For: **Jon Erpenbach (608) 266-6670**

By/Representing: **Julie**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Trade Regulation**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Regulation of telephone solicitors

Instructions:

Prepare sub. identical to LRBs0248/2

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>
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/1			haueca 01/21/2000	_____	lrb_docadmin 01/21/2000	lrb_docadmin 01/21/2000	

FE Sent For:

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1/2	kunkemd	h k jlg	CH T-21	CH 1-21			

FE Sent For:

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MEMORANDUM

from RICHARD SWEET
Legislative Council Staff

1/20/00

50261

Mark,

The Senate Privacy Comm.
noted to introduce LRB 0248/1, with 2 changes --

1. A word needs to be stricken on p. 7, line 1.
2. References to "employee" should be to "employee or contractor" because of the definition of "telephone solicitor". I caught 3 places where it should be changed, but I'm not sure I caught them all.

The redrafted sub. should go back to Julie Landrie in Sen. Epenhard's office.

Thanks for your help.

Rich Sweet
6-2982



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0248/1
MDK:cmh:jf

SENATE SUBSTITUTE AMENDMENT ,
TO 1999 SENATE BILL 267

1 **AN ACT to repeal** 134.72 (2) (a) (title) and 134.72 (2) (b) (title); **to renumber**
2 134.72 (2) (a); **to renumber and amend** 134.72 (1) (c) and 134.72 (2) (b); **to**
3 **amend** 100.264 (2) (intro.), 134.72 (title), 134.72 (3) (a) and 134.72 (3) (b); and
4 **to create** 20.115 (8) (jm), 100.52 (title), 100.52 (1) (title), 100.52 (1) (a), 100.52
5 (1) (b), 100.52 (1) (c), 100.52 (1) (d), 100.52 (1) (e), 100.52 (1) (g), 100.52 (2),
6 100.52 (3), 100.52 (4) (title), 100.52 (4) (b), 100.52 (4) (c), 100.52 (4) (d), 100.52
7 (5), 100.52 (6) and 100.52 (7) of the statutes; **relating to:** prohibiting certain
8 telephone solicitations, requiring the registration of telephone solicitors,
9 requiring the exercise of rule-making authority, making an appropriation and
10 providing penalties.

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

11 **SECTION 1.** 20.115 (8) (jm) of the statutes is created to read:

1 20.115 (8) (jm) *Telephone solicitation regulation.* All moneys received from
2 telephone solicitor registration and registration renewal fees paid under the rules
3 promulgated under s. 100.52 (3) (a) for establishing and maintaining the
4 nonsolicitation directory under s. 100.52 (2).

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

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

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

15 **100.52 (title) Telephone solicitations.**

16 **SECTION 4.** 100.52 (1) (title) of the statutes is created to read:

17 100.52 (1) (title) **DEFINITIONS.**

18 **SECTION 5.** 100.52 (1) (a) of the statutes is created to read:

19 100.52 (1) (a) “Basic local exchange service” has the meaning in s. 196.01 (1g).

20 **SECTION 6.** 100.52 (1) (b) of the statutes is created to read:

21 100.52 (1) (b) “Nonprofit organization” means a corporation, association or
22 organization exempt from taxation under section 501 (c) (3) of the Internal Revenue
23 Code.

24 **SECTION 7.** 100.52 (1) (c) of the statutes is created to read:

1 100.52 (1) (c) “Nonsolicitation directory” means the directory established in
2 rules promulgated by the department under sub. (2) (b).

3 **SECTION 8.** 100.52 (1) (d) of the statutes is created to read:

4 100.52 (1) (d) “Residential customer” means an individual who is furnished
5 with basic local exchange service by a telecommunications utility.

6 **SECTION 9.** 100.52 (1) (e) of the statutes is created to read:

7 100.52 (1) (e) “Telecommunications utility” has the meaning given in s. 196.01
8 (10).

9 **SECTION 10.** 100.52 (1) (g) of the statutes is created to read:

10 100.52 (1) (g) “Telephone solicitor” means a person, other than a nonprofit
11 organization, that employs or contracts with an individual to make a telephone
12 solicitation.

13 **SECTION 11.** 100.52 (2) of the statutes is created to read:

14 100.52 (2) **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 made on behalf of a telephone solicitor.

18 (b) The department shall promulgate rules for establishing and maintaining
19 a directory that includes listings of residential customers who do not wish to receive
20 telephone solicitations made on behalf of telephone solicitors. The rules
21 promulgated under this paragraph shall establish requirements and procedures for
22 a residential customer to request a listing in the directory. The rules shall also
23 require a residential customer who requests a listing in the directory to notify the
24 department on a biennial basis if the residential customer wishes to continue to be

1 included in the directory. The department shall eliminate a residential customer
2 from the directory if the customer does not make the biennial notification.

3 (c) Except for copies of the nonsolicitation directory that are provided to
4 registered telephone solicitors under par. (d), the nonsolicitation directory is not
5 subject to inspection, copying or receipt under s. 19.35 (1) and may not be released
6 by the department.

7 (d) The department may provide copies of the nonsolicitation directory only to
8 telephone solicitors who are registered under sub. (3). A telephone solicitor who
9 receives a copy of the directory under this paragraph may not solicit or accept from
10 any person, directly or indirectly, anything of value in exchange for providing the
11 person with any information included in the copy.

12 **SECTION 12.** 100.52 (3) of the statutes is created to read:

13 100.52 (3) REGISTRATION OF TELEPHONE SOLICITORS. (a) The department shall
14 promulgate rules that require any telephone solicitor who requires an employe to
15 make a telephone solicitation to a person in this state to register with the
16 department, obtain a registration number from the department and pay a
17 registration fee to the department. The amount of the registration fee shall be based
18 on the cost of establishing the nonsolicitation directory, and the amount that an
19 individual telephone solicitor is required to pay shall be based on the number of
20 telephone lines used by the telephone solicitor to make telephone solicitations. The
21 rules shall also require a telephone solicitor that registers with the department to
22 pay an annual registration renewal fee to the department. The amount of the
23 registration renewal fee shall be based on the cost of maintaining the nonsolicitation
24 directory.

1 (b) The department shall promulgate rules that require an individual who
2 makes a telephone solicitation on behalf of a telephone solicitor to identify the
3 telephone solicitor and the telephone solicitor's registration number at the beginning
4 of the telephone conversation.

5 **SECTION 13.** 100.52 (4) (title) of the statutes is created to read:

6 100.52 (4) (title) PROHIBITIONS.

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

8 100.52 (4) (b) A telephone solicitor may not require an employe^{or contractor} to make a
9 telephone solicitation to a person in this state unless the telephone solicitor is
10 registered with the department under the rules promulgated under sub. (3) (a).

11 **SECTION 15.** 100.52 (4) (c) of the statutes is created to read:

12 100.52 (4) (c) A person may not make a telephone solicitation to a residential
13 customer if the nonsolicitation directory that is available to the public at the time of
14 the telephone solicitation includes a listing for the residential customer.

15 **SECTION 16.** 100.52 (4) (d) of the statutes is created to read:

16 100.52 (4) (d) A telephone solicitor may not require an employe^{or contractor} to make a
17 telephone solicitation that violates par. (a) or (c).

18 **SECTION 17.** 100.52 (5) of the statutes is created to read:

19 100.52 (5) TERRITORIAL APPLICATION. This section applies to any interstate
20 telephone solicitation received by a person in this state and to any intrastate
21 telephone solicitation.

22 **SECTION 18.** 100.52 (6) of the statutes is created to read:

23 100.52 (6) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the
24 result of another person violating this section may bring an action against the person
25 who violated this section to recover the amount of those damages.

1 **SECTION 19.** 100.52 (7) of the statutes is created to read:

2 100.52 (7) **PENALTIES.** (a) Except as provided in par. (b), a person who violates
3 this section may forfeit not less than \$100 nor more than \$500 for each violation.

4 (b) A telephone solicitor that violates sub. (4) (d) may forfeit not less than
5 \$1,000 nor more than \$10,000 for each violation.

6 **SECTION 20.** 134.72 (title) of the statutes is amended to read:

7 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
8 **or facsimile machine.**

9 **SECTION 21.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (f) and
10 amended to read:

11 100.52 (1) (f) "Telephone solicitation" means the unsolicited initiation of a
12 telephone conversation for the purpose of encouraging a person to purchase property,
13 goods or services or to make a contribution, donation, grant or pledge of money,
14 credit, property or other thing of any kind or value.

15 **SECTION 22.** 134.72 (2) (a) (title) of the statutes is repealed.

16 **SECTION 23.** 134.72 (2) (a) of the statutes is renumbered 100.52 (4) (a).

17 **SECTION 24.** 134.72 (2) (b) (title) of the statutes is repealed.

18 **SECTION 25.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72
19 (2) (b), as renumbered, is amended to read:

20 134.72 (2) (b) Notwithstanding ~~subd. 1.~~ par. (a), a person may not make a
21 facsimile solicitation to a person who has notified the facsimile solicitor in writing
22 or by facsimile transmission that the person does not want to receive facsimile
23 solicitation.

24 **SECTION 26.** 134.72 (3) (a) of the statutes is amended to read:



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBs0248/2
MDK:cmh:krm

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D-NOTE

stays
0261/11

SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 267

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RUN

Regen

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3 amend 100.264 (2) (intro.), 134.72 (title), 134.72 (3) (a) and 134.72 (3) (b); and
4 to create 20.115 (8) (jm), 100.52 (title), 100.52 (1) (title), 100.52 (1) (a), 100.52
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12 100.52 (4) (c) A person may not make a telephone solicitation to a residential
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14 the telephone solicitation includes a listing for the residential customer.

15 **SECTION 16.** 100.52 (4) (d) of the statutes is created to read:

16 100.52 (4) (d) A telephone solicitor may not require an employe or contractor
17 to make a telephone solicitation that violates par. (a) or (c).

18 **SECTION 17.** 100.52 (5) of the statutes is created to read:

19 100.52 (5) TERRITORIAL APPLICATION. This section applies to any interstate
20 telephone solicitation received by a person in this state and to any intrastate
21 telephone solicitation.

22 **SECTION 18.** 100.52 (6) of the statutes is created to read:

23 100.52 (6) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the
24 result of another person violating this section may bring an action against the person
25 who violated this section to recover the amount of those damages.

1 **SECTION 19.** 100.52 (7) of the statutes is created to read:

2 100.52 (7) **PENALTIES.** (a) Except as provided in par. (b), a person who violates
3 this section may forfeit not less than \$100 nor more than \$500 for each violation.

4 (b) A telephone solicitor that violates sub. (4) (d) may forfeit not less than
5 \$1,000 nor more than \$10,000 for each violation.

6 **SECTION 20.** 134.72 (title) of the statutes is amended to read:

7 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
8 **or facsimile machine.**

9 **SECTION 21.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (f) and
10 amended to read:

11 100.52 (1) (f) “Telephone solicitation” means the unsolicited initiation of a
12 telephone conversation for the purpose of encouraging a person to purchase property,
13 goods or services or to make a contribution, donation, grant or pledge of money,
14 credit, property or other thing of any kind or value.

15 **SECTION 22.** 134.72 (2) (a) (title) of the statutes is repealed.

16 **SECTION 23.** 134.72 (2) (a) of the statutes is renumbered 100.52 (4) (a).

17 **SECTION 24.** 134.72 (2) (b) (title) of the statutes is repealed.

18 **SECTION 25.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72
19 (2) (b), as renumbered, is amended to read:

20 134.72 (2) (b) Notwithstanding ~~subd. 1, par. (a)~~, a person may not make a
21 facsimile solicitation to a person who has notified the facsimile solicitor in writing
22 or by facsimile transmission that the person does not want to receive facsimile
23 solicitation.

24 **SECTION 26.** 134.72 (3) (a) of the statutes is amended to read:

1 134.72 (3) (a) *Intrastate*. This section applies to any intrastate telephone
2 ~~solicitation or intrastate facsimile solicitation.~~

3 **SECTION 27.** 134.72 (3) (b) of the statutes is amended to read:

4 134.72 (3) (b) *Interstate*. This section applies to any interstate telephone
5 ~~solicitation, or interstate facsimile solicitation,~~ received by a person in this state.

6

(END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0261/1dn
MDK.....

Senator Erpenbach:

This substitute amendment is identical to LRBs0248/2, which incorporated typos that were corrected after I talked with Dick Sweet.

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

**DRAFTER'S NOTE
FROM THE
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LRBs0261/1dn
MDK:cmh:ch

January 21, 2000

Senator Erpenbach:

This substitute amendment is identical to LRBs0248/2, which incorporated typos that were corrected after I talked with Dick Sweet.

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

24
TODAY
20261

cmf

CCC

SENATE SUB AMEND 1

TO 1999 SENATE BILL 267

#. Page 4, line 14: after "an employe" insert "or contractor".

#. Page 5, line 8: after "an employe" insert "or contractor".

#. Page 5, line 16: after "an employe" insert "or contractor".

Page 7, line 1: delete "intrastate" and substitute "intrastate".



State of Wisconsin
1999-2000 LEGISLATURE

CORRECTIONS IN:

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 267**

Prepared by the Legislative Reference Bureau
(January 24, 2000)

1. Page 4, line 14: after "an employe" insert "or contractor".
2. Page 5, line 8: after "an employe" insert "or contractor".
3. Page 5, line 16: after "an employe" insert "or contractor".
4. Page 7, line 1: delete "intrastate" and substitute "intrastate".

LRBs0261/1ccc-1

CMH:ch

Minor clerical corrections in legislation are authorized under s. 35.17, stats.; Senate Rule 31, Assembly Rule 37 and Joint Rule 56.

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Wanted: **As time permits**

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By/Representing: **Julie**

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

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Pre Topic:

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Instructions:

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Handwritten:
NOW
part of
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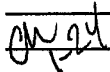
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By/Representing: **Julie**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Trade Regulation**

Extra Copies: **MGG, RNK**

Pre Topic:

No specific pre topic given

Topic:

Regulation of telephone solicitors

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	<i>cmk</i> /	<i>26/1/14</i>	<i>26/1/14</i> <i>cmk</i>			
FE Sent For:		<i>4/14</i>		<END>			

MONDAY
4:30pm
TODAY

SSA to
1999 SENATE BILL 267

50248/1

RM NOT
RUN

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.

repeal act

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

penalty. penalties

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

SENATE BILL 267

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.

INSEAT
2-1

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

~~SECTION 1. 134.72 (1) (a) of the statutes is created to read:
134.72 (1) (a) Telephone solicitation regulation. All moneys received from telephone solicitor registration fees paid under the rules promulgated under s. 134.72 (1) for establishing and maintaining the nonsolicitation directory under s. 134.72 (1g).~~

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

~~134.72 (title) Telephone and facsimile solicitations.~~

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

SECTION 4. ~~134.72 (1) (a)~~ ^{100.52 (1) (a)} of the statutes is created to read:

134.72 (1) (a) ^{100.52 (1) (a)} "Basic local exchange service" has the meaning in s. 196.01 (1g).

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

134.72 (1) (am) "Department" means the department of agriculture, trade and consumer protection.

SENATE BILL 267

INSERT 3-1

1 SECTION 6. ~~134.72(1)(b)~~^{100.52(1)(c)} of the statutes is created to read:
2 ~~134.72(1)(b)~~^{100.52(1)(c)} "Nonsolicitation directory" means the directory established in
3 rules promulgated by the department under sub. ~~(b)~~^(b) (2)

4 SECTION 7. ~~134.72(1)(b)~~^{100.52(1)(d)} of the statutes is created to read:
5 ~~134.72(1)(b)~~^{100.52(1)(d)} "Residential customer" means an individual who is furnished
6 with basic local exchange service by a telecommunications utility.

7 SECTION 8. ~~134.72(1)(b)~~^{100.52(1)(e)} of the statutes is created to read: ✓
8 ~~134.72(1)(b)~~^{100.52(1)(e)} "Telecommunications utility" has the meaning given in s. 196.01
9 (10). (B)

10 SECTION 9. ~~134.72(1)(d)~~^{100.52(1)(g)} 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.~~ (B) INSERT 3-12

13 SECTION 10. ~~134.72(1)(a)~~^{100.52(2)} of the statutes is created to read:
14 ~~134.72(1)(a)~~^{100.52(2)} 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. *made on behalf of a telephone solicitor*

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

SENATE BILL 267

SECTION 10

1 in a manner that, as determined by the department, facilitates public access to the
2 directory. INSERT 4-3

3 SECTION 11. ~~134.72 (1)~~ ^{100.52 (3)} of the statutes is created to read:
4 INSERT 4-4

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

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

11 INSERT 4-10 134.72 (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~~ ^{100.52 (4) (b)} of the statutes is created to read:

14 ~~134.72 (2) (a) 2~~ ^{100.52 (4) (b)} 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. ~~100.52 (4) (a)~~ ^{(3) (a)}

17 SECTION 15. ~~134.72 (2) (a) 3~~ ^{100.52 (4) (c)} of the statutes is created to read:

18 ~~134.72 (2) (a) 3~~ ^{100.52 (4) (c)} 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~~ ^{100.52 (4) (d)} of the statutes is created to read:

22 ~~134.72 (2) (a) 4~~ ^{100.52 (4) (d)} A telephone solicitor may not require an employe to make a
23 telephone solicitation that violates ~~sub. 100.52 (a) or (c)~~ ^{sub. 100.52 (a) or (c)}

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

INSERT 4-25

SENATE BILL 267

INSERT 5-3

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)~~ ^{(100.52 (4) (f))} of the statutes is created to read:
4 ~~134.72 (4) (b)~~ ^(a) (b) A telephone solicitor that violates sub. ~~(b)~~ ^{(4) (d)} may forfeit ~~no~~
5 more than \$10,000 ^{for each violation}.

not
no less than
\$1,000
and
not

6 ~~SECTION 19. 767.265 (2r)~~ ^{INSERT 5-5} 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).

SENATE AMENDMENT,
TO 1999 SENATE BILL 267

WPO
thaw
numbers

INSERTS to
9950237/1

1 ~~At the locations indicated, amend the bill as follows:~~

2 ~~1. Page 2, line 3: after "registration" insert "and registration renewal".~~

3 ~~2. Page 2, line 4: after "(1)" insert "(a)".~~

4 ~~3. Page 3, line 1: before that line insert:~~

INSERT 5 SECTION 5m ~~100.52(1)(b)~~ ^{100.52(1)(b)} of the statutes is created to read:

3-1: 6 ~~100.52(1)(b)~~ ^{100.52(1)(b)} "Nonprofit organization" means a corporation, association or

7 organization exempt from taxation under section 501 (c) (3) of the Internal Revenue

8 Code. ~~02~~

END OF INSERT 3-1

9 ~~4. Page 3, line 9: after that line insert:~~

10 SECTION 8m ~~100.52(1)(c)~~ ^{100.52(1)(f)} of the statutes is amended to read:

11 ~~100.52(1)(c)~~ ^{100.52(1)(f)} "Telephone solicitation" means the unsolicited initiation of a

12 telephone conversation for the purpose of encouraging a person to purchase property,

~~1 goods or services or to make a contribution, donation, grant or pledge of money,
 2 credit, property or other thing of any kind or value.~~

INSERT
4
3-12:

~~5. Page 3, line 11: delete lines 11 and 12 and substitute:~~

100.52 (1)(g)
 130.72 (1)(d) "Telephone solicitor" means a person, other than a nonprofit
 organization, that employs or contracts with an individual to make a telephone
 solicitation. END OF INSERT 3-12

~~6. Page 3, line 17: after "solicitation" insert "made on behalf of a telephone
 solicitor".~~

~~7. Page 3, line 18: delete the material beginning with that line and ending
 with page 4, line 2, and substitute:~~

INSERT
4-3:

(b) The department shall promulgate rules for establishing and maintaining
 a directory that includes listings of residential customers who do not wish to receive
 telephone solicitations made on behalf of telephone solicitors. The rules
 promulgated under this paragraph shall establish requirements and procedures for
 a residential customer to request a listing in the directory. The rules shall also
 require a residential customer who requests a listing in the directory to notify the
 department on a biennial basis if the residential customer wishes to continue to be
 included in the directory. The department shall eliminate a residential customer
 from the directory if the customer does not make the biennial notification.

(c) Except for copies of the nonsolicitation directory that are provided to
 registered telephone solicitors under par. (d), the nonsolicitation directory is not
 subject to inspection, copying or receipt under s. 19.35 (1) and may not be released
 by the department.



1 (d) The department may provide copies of the nonsolicitation directory only to
 2 telephone solicitors who are registered under sub. [✓] ~~sub. (3)~~ A telephone solicitor who
 3 receives a copy of the directory under this paragraph may not solicit or accept from
 4 any person, directly or indirectly, anything of value in exchange for providing the
 5 person with any information included in the copy. ^{period stays} ~~(3)~~ END OF INSERT 4-3

6 ~~8. Page 4, line 4: delete lines 4 to 9 and substitute:~~

INSERT
4-4

7 ~~REGISTRATION OF TELEPHONE SOLICITORS.~~ (a) The department shall
 8 promulgate rules that require ^{100.52(3)} any telephone solicitor who requires an employe to
 9 make a telephone solicitation to a person in this state to register with the
 10 department, obtain a registration number from the department and pay a
 11 registration fee to the department. The amount of the registration fee shall be based
 12 on the cost of establishing the nonsolicitation directory, and the amount that an
 13 individual telephone solicitor is required to pay shall be based on the number of
 14 telephone lines used by the telephone solicitor to make telephone solicitations. The
 15 rules shall also require a telephone solicitor that registers with the department to
 16 pay an annual registration renewal fee to the department. The amount of the
 17 registration renewal fee shall be based on the cost of maintaining the nonsolicitation
 18 directory.

19 (b) The department shall promulgate rules that require an individual who
 20 makes a telephone solicitation on behalf of a telephone solicitor to identify the
 21 telephone solicitor and the telephone solicitor's registration number at the beginning
 22 of the telephone conversation. END OF INSERT 4-4

23 ~~9. Page 4, line 16: after "(1r)" insert "(a)"~~

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0248/lins
MDK:.....

SECTION # 100.52 (title) of the statutes is created to read.
100.52 (title) Telephone solicitations.

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INSERT 2-1:

SECTION 1. 20.115 (8) (j) of the statutes is created to read:

20.115 (8) (j) 20.155 (1) (jr) Telephone solicitation regulation. All moneys received from telephone solicitor registration and registration renewal fees paid under the rules promulgated under s. 100.52 (3) (a) for establishing and maintaining the nonsolicitation directory under s. 100.52 (2).

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

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

History: 1995 a. 382

SECTION 3. 100.52 (1) (title) of the statutes is created to read:

100.52 (1) (title) DEFINITIONS.

(END OF INSERT)

✓ INSERT 3-1: see LRBA1089/2 (attached)

✓ INSERT 3-12: see LRBA1089/2 (attached)

✓ INSERT 4-3: see LRBA1089/2 (attached)

✓ INSERT 4-4: see LRBA1089/2 (attached)

INSERT 4-10:

SECTION 4. 100.52 (4) (title) of the statutes is created to read:



1 100.52 (4) (title) PROHIBITIONS.

2 **INSERT 4-25:**

3 **SECTION 5.** 100.52 (5) of the statutes is created to read:

4 100.52 (5) TERRITORIAL APPLICATION. This section applies to any interstate
5 telephone solicitation received by a person in this state and to any intrastate
6 telephone solicitation.

7 **SECTION 6.** 100.52 (6) of the statutes is created to read:

8 100.52 (6) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the
9 result of another person violating this section may bring an action against the person
10 who violated this section to recover the amount of those damages.

11 **INSERT 5-3:**

12 100.52 (7) PENALTIES. (a) Except as provided in par. (b), a person who violates
13 this section may forfeit ^{not} less than \$100 ^{and no} more than \$500 for each violation. _{nor}

14 **INSERT 5-5:**

15 **SECTION 7.** 134.72 (title) of the statutes is amended to read:

16 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
17 **or facsimile machine.**

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

18 **SECTION 8.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (f) and
19 amended to read:

20 100.52 (1) (f) "Telephone solicitation" means the unsolicited initiation of a
21 telephone conversation for the purpose of encouraging a person to purchase property,
22 goods or services or to make a contribution, donation, grant or pledge of money,
23 credit, property or other thing of any kind or value.

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

24 **SECTION 9.** 134.72 (2) (a) (title) of the statutes is repealed.

1 **SECTION 10.** 134.72 (2) (a) of the statutes is renumbered 100.52 (4) (a). ✓

2 **SECTION 11.** 134.72 (2) (h) (title) of the statutes is repealed. ✓

3 **SECTION 12.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2) ✓ and 134.72

4 (2) (b), as renumbered, is amended to read:

5 134.72 (2) (b) Notwithstanding ^{plain space} ~~subd. 1.~~ par. (a), a person may not make a ✓
6 facsimile solicitation to a person who has notified the facsimile solicitor in writing
7 or by facsimile transmission that the person does not want to receive facsimile
8 solicitation.

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

9 **SECTION 13.** 134.72 (3) (a) of the statutes is amended to read:

10 134.72 (3) (a) *Intrastate*. This section applies to any intrastate telephone
11 ~~solicitation or~~ intrastate facsimile solicitation.

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

12 **SECTION 14.** 134.72 (3) (b) of the statutes is amended to read:

13 134.72 (3) (b) *Interstate*. This section applies to any interstate telephone ✓
14 ~~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.

500N
~~Today~~
by
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1999 - 2000 LEGISLATURE

LRBs0248/1
MDK:cmh:jf

2

SENATE SUBSTITUTE AMENDMENT,
TO 1999 SENATE BILL 267

RM NOT
RUN

regen

1 AN ACT *to repeal* 134.72 (2) (a) (title) and 134.72 (2) (b) (title); *to renumber*
2 134.72 (2) (a); *to renumber and amend* 134.72 (1) (c) and 134.72 (2) (b); *to*
3 *amend* 100.264 (2) (intro.), 134.72 (title), 134.72 (3) (a) and 134.72 (3) (b); and
4 *to create* 20.115 (8) (jm), 100.52 (title), 100.52 (1) (title), 100.52 (1) (a), 100.52
5 (1) (b), 100.52 (1) (c), 100.52 (1) (d), 100.52 (1) (e), 100.52 (1) (g), 100.52 (2),
6 100.52 (3), 100.52 (4) (title), 100.52 (4) (b), 100.52 (4) (c), 100.52 (4) (d), 100.52
7 (5), 100.52 (6) and 100.52 (7) of the statutes; **relating to:** prohibiting certain
8 telephone solicitations, requiring the registration of telephone solicitors,
9 requiring the exercise of rule-making authority, making an appropriation and
10 providing penalties.

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

11 SECTION 1. 20.115 (8) (jm) of the statutes is created to read:

1 20.115 (8) (jm) *Telephone solicitation regulation.* All moneys received from
2 telephone solicitor registration and registration renewal fees paid under the rules
3 promulgated under s. 100.52 (3) (a) for establishing and maintaining the
4 nonsolicitation directory under s. 100.52 (2).

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

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

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

15 **100.52 (title) Telephone solicitations.**

16 **SECTION 4.** 100.52 (1) (title) of the statutes is created to read:

17 100.52 (1) (title) **DEFINITIONS.**

18 **SECTION 5.** 100.52 (1) (a) of the statutes is created to read:

19 100.52 (1) (a) “Basic local exchange service” has the meaning in s. 196.01 (1g).

20 **SECTION 6.** 100.52 (1) (b) of the statutes is created to read:

21 100.52 (1) (b) “Nonprofit organization” means a corporation, association or
22 organization exempt from taxation under section 501 (c) (3) of the Internal Revenue
23 Code.

24 **SECTION 7.** 100.52 (1) (c) of the statutes is created to read:

1 100.52 (1) (c) “Nonsolicitation directory” means the directory established in
2 rules promulgated by the department under sub. (2) (b).

3 **SECTION 8.** 100.52 (1) (d) of the statutes is created to read:

4 100.52 (1) (d) “Residential customer” means an individual who is furnished
5 with basic local exchange service by a telecommunications utility.

6 **SECTION 9.** 100.52 (1) (e) of the statutes is created to read:

7 100.52 (1) (e) “Telecommunications utility” has the meaning given in s. 196.01
8 (10).

9 **SECTION 10.** 100.52 (1) (g) of the statutes is created to read:

10 100.52 (1) (g) “Telephone solicitor” means a person, other than a nonprofit
11 organization, that employs or contracts with an individual to make a telephone
12 solicitation.

13 **SECTION 11.** 100.52 (2) of the statutes is created to read:

14 100.52 (2) 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 made on behalf of a telephone solicitor.

18 (b) The department shall promulgate rules for establishing and maintaining
19 a directory that includes listings of residential customers who do not wish to receive
20 telephone solicitations made on behalf of telephone solicitors. The rules
21 promulgated under this paragraph shall establish requirements and procedures for
22 a residential customer to request a listing in the directory. The rules shall also
23 require a residential customer who requests a listing in the directory to notify the
24 department on a biennial basis if the residential customer wishes to continue to be

1 included in the directory. The department shall eliminate a residential customer
2 from the directory if the customer does not make the biennial notification.

3 (c) Except for copies of the nonsolicitation directory that are provided to
4 registered telephone solicitors under par. (d), the nonsolicitation directory is not
5 subject to inspection, copying or receipt under s. 19.35 (1) and may not be released
6 by the department.

7 (d) The department may provide copies of the nonsolicitation directory only to
8 telephone solicitors who are registered under sub. (3). A telephone solicitor who
9 receives a copy of the directory under this paragraph may not solicit or accept from
10 any person, directly or indirectly, anything of value in exchange for providing the
11 person with any information included in the copy.

12 SECTION 12. 100.52 (3) of the statutes is created to read:

13 100.52 (3) REGISTRATION OF TELEPHONE SOLICITORS. (a) The department shall
14 promulgate rules that require any telephone solicitor who requires an employe to
15 make a telephone solicitation to a person in this state to register with the
16 department, obtain a registration number from the department and pay a
17 registration fee to the department. The amount of the registration fee shall be based
18 on the cost of establishing the nonsolicitation directory, and the amount that an
19 individual telephone solicitor is required to pay shall be based on the number of
20 telephone lines used by the telephone solicitor to make telephone solicitations. The
21 rules shall also require a telephone solicitor that registers with the department to
22 pay an annual registration renewal fee to the department. The amount of the
23 registration renewal fee shall be based on the cost of maintaining the nonsolicitation
24 directory.

or contractor

1 (b) The department shall promulgate rules that require an individual who
2 makes a telephone solicitation on behalf of a telephone solicitor to identify the
3 telephone solicitor and the telephone solicitor's registration number at the beginning
4 of the telephone conversation.

5 SECTION 13. 100.52 (4) (title) of the statutes is created to read:

6 100.52 (4) (title) PROHIBITIONS.

7 SECTION 14. 100.52 (4) (b) of the statutes is created to read:

8 100.52 (4) (b) A telephone solicitor may not require an employe to make a
9 telephone solicitation to a person in this state unless the telephone solicitor is
10 registered with the department under the rules promulgated under sub. (3) (a).

or contractor

11 SECTION 15. 100.52 (4) (c) of the statutes is created to read:

12 100.52 (4) (c) A person may not make a telephone solicitation to a residential
13 customer if the nonsolicitation directory that is available to the public at the time of
14 the telephone solicitation includes a listing for the residential customer.

15 SECTION 16. 100.52 (4) (d) of the statutes is created to read:

16 100.52 (4) (d) A telephone solicitor may not require an employe to make a
17 telephone solicitation that violates par. (a) or (c).

or contractor

18 SECTION 17. 100.52 (5) of the statutes is created to read:

19 100.52 (5) TERRITORIAL APPLICATION. This section applies to any interstate
20 telephone solicitation received by a person in this state and to any intrastate
21 telephone solicitation.

22 SECTION 18. 100.52 (6) of the statutes is created to read:

23 100.52 (6) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the
24 result of another person violating this section may bring an action against the person
25 who violated this section to recover the amount of those damages.

1 **SECTION 19.** 100.52 (7) of the statutes is created to read:

2 100.52 (7) **PENALTIES.** (a) Except as provided in par. (b), a person who violates
3 this section may forfeit not less than \$100 nor more than \$500 for each violation.

4 (b) A telephone solicitor that violates sub. (4) (d) may forfeit not less than
5 \$1,000 nor more than \$10,000 for each violation.

6 **SECTION 20.** 134.72 (title) of the statutes is amended to read:

7 **134.72 (title) Prohibition of certain unsolicited messages by telephone**
8 **or facsimile machine.**

9 **SECTION 21.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (f) and
10 amended to read:

11 100.52 (1) (f) “Telephone solicitation” means the unsolicited initiation of a
12 telephone conversation for the purpose of encouraging a person to purchase property,
13 goods or services or to make a contribution, donation, grant or pledge of money,
14 credit, property or other thing of any kind or value.

15 **SECTION 22.** 134.72 (2) (a) (title) of the statutes is repealed.

16 **SECTION 23.** 134.72 (2) (a) of the statutes is renumbered 100.52 (4) (a).

17 **SECTION 24.** 134.72 (2) (b) (title) of the statutes is repealed.

18 **SECTION 25.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72
19 (2) (b), as renumbered, is amended to read:

20 134.72 (2) (b) Notwithstanding ~~subd. 1.~~ par. (a), a person may not make a
21 facsimile solicitation to a person who has notified the facsimile solicitor in writing
22 or by facsimile transmission that the person does not want to receive facsimile
23 solicitation.

24 **SECTION 26.** 134.72 (3) (a) of the statutes is amended to read:

strike
↓

1 134.72 (3) (a) *Intrastate*. This section applies to any ~~intrastate~~ telephone
2 ~~solicitation~~ or intrastate facsimile solicitation.

3 SECTION 27. 134.72 (3) (b) of the statutes is amended to read:

4 134.72 (3) (b) *Interstate*. This section applies to any ~~interstate~~ telephone
5 ~~solicitation, or interstate facsimile solicitation,~~ received by a person in this state.

6 (END)