

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0812/P1dn
MDK:jlg:hmh

February 26, 1999

Lieutenant Governor McCallum:

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

1. The draft allows an electronic mail service provider to seek damages for an injury from an electronic mail message that uses its equipment in violation of its solicitation policy. What is the nature of such an injury? How is an electronic mail service provider likely to show that an injury occurred? Should an electronic mail service provider be required to prove such an injury before collecting damages? Or should the draft be revised?

2. The draft (along with the California law on which it is based) raises several issues regarding interstate commerce and delegation of legislative authority. Although I have not thoroughly researched these issues, I can look at them further at your request.

3. The draft prohibits a person from collecting information from a child without parental consent, but does not address how consent must be obtained. Also, how would a person know whether a child, rather than an adult, is supplying information?

4. Are the forfeitures for violations of proposed s. 141.03 (1) (a) and (b) and (2) (b) okay? Do you want to provide a penalty for violations of proposed s. 141.03 (2) (a)?

Please contact me if you want to discuss these issues further.

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