

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0812/P2dn
MDK:jlj:jf

August 13, 1999

Lieutenant Governor McCallum:

Please review this version very carefully to make sure that it achieves your intent. I will prepare an analysis for the next version of this bill after you review this version. In particular, please note the following:

1. Based on your redraft instructions, I don't think it is necessary to use the term "World Wide Web". Therefore, the term "Internet" is used instead in the definitions of "Internet domain name" and "Web site". Is this okay?

2. Proposed s. 141.03 (1) (b) refers to providing information "through the Internet", rather than referring only to providing information. Is this okay?

3. This version allows DATCP or a district attorney to bring an action for forfeitures for violations of the electronic mail solicitation prohibition. This version does not allow a private individual to do so. Because attorneys' fees are usually made available to private individuals, rather than the state, this version does not provide for attorneys' fees. Please contact me if you want to revise the enforcement provisions of this version.

4. The federal definition that you provided regarding "verifiable parental consent" appears to require only that a person make a reasonable effort to obtain consent. Therefore, this version requires the same thing in proposed s. 141.03 (1) (b), and gives examples of what constitutes obtaining consent. Is this okay?

5. This version adds a definition for "electronic chain letter". I took this approach because it seems to me that a chain letter is something entirely different than a solicitation.

6. Proposed s. 141.03 (2) (c) is intended to create an exemption for Internet service providers.

7. The delegation of authority issue that I mentioned in the previous drafter's note concerns making it illegal for a person to violate another person's solicitation or chain letter policy. Therefore, in a sense, the bill delegates to a private party the power to define what constitutes illegal activity. I haven't researched this issue, but I wanted to at least bring it to your attention. I can look at this issue further if you want me to.

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