

**2001 DRAFTING REQUEST**

**Bill**

Received: 01/11/2001

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Pedro Colon (608) 267-7669**

By/Representing: **Andy Janssen**

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

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Bus. Assn. - miscellaneous  
Trade Regulation - other**

Extra Copies: **RTK, MGG**

**Pre Topic:**

No specific pre topic given

**Topic:**

Strengthening 900 pay-per-call and 800 number consumer protections

**Instructions:**

Prepare companion bill to 01-1327

**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 01/17/2001	jdye 01/17/2001		_____			State
/1			martykr 01/19/2001	_____	lrb_docadmin 01/19/2001	lrb_docadmin 01/22/2001	

FE Sent For:

<END>

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1/?	kunkemd	11/17 jld	km/19	cmh km/19			

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<END>

D-NOTE

2001 BILL

-1987/1

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1 AN ACT *to amend* 196.208 (5t) (b), 196.208 (7) (b) (intro.), 196.208 (11) (a) 1. and  
 2 196.208 (11) (d); and *to create* 196.208 (1) (bm), 196.208 (2) (cm), 196.208 (7)  
 3 (a) 1m., 196.208 (7m), 196.208 (9m), 196.208 (11) (bm) and 973.137 of the  
 4 statutes; **relating to:** transferring toll-free calls to pay-per-call services or  
 5 international numbers, creating certain disclosure and reporting  
 6 requirements, and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Under current law, providers of pay-per-call services, or 900-number services, are subject to a number of requirements. A pay-per-call service must generally begin with a preamble that discloses information about the provider of the service and the cost of the call. Billing may commence only after a specific identified event, such as an audible signal tone, after the preamble and after the caller has a reasonable opportunity to disconnect the call. A provider may not charge for time that the caller is placed on hold and is subject to certain other limitations regarding charges. A toll-free vendor may not transfer the calling party to a pay-per-call service or call the calling party back collect. Unless the calling party has a preexisting subscription relationship with the toll-free vendor or unless the caller discloses a credit card account number during the call, the toll-free vendor may not charge the calling party for information provided during the call. Telecommunications utilities are required to provide certain disclosures on bills

**BILL**

containing pay-per-call services, informing the customer of the customer's right to dispute pay-per-call charges and informing the customer that his or her telephone service may not be disconnected for failure to pay for pay-per-call services. Telecommunication utilities are subject to additional requirements relating to the provision of billing services for pay-per-call service providers, to billing collection practices and to the provision of blocking services to prohibit the access of pay-per-call services. The department of justice (DOJ) is given authority to enforce provisions relating to pay-per-call service providers, and the public service commission (PSC) is responsible for administering the provisions relating to telecommunications utilities.

This bill makes a number of changes to the provisions governing pay-per-call services, including the following:

1. Transfers to international numbers. The bill prohibits a toll-free vendor from transferring a toll-free call to an international number.

2. Additional disclosure requirements. The bill requires the preamble at the beginning of a pay-per-call service to include a statement that it is illegal for a person to transfer a toll-free call to a pay-per-call service and that, if the caller has been transferred to this pay-per-call service from a toll-free number, the caller should report the information to the department of agriculture, trade and consumer protection (DATCP). Telecommunications utilities are required to place similar disclosures on bills containing a charge for pay-per-call services.

3. Reporting requirements. The bill requires telecommunications utilities, to the extent allowed under federal law, to report to DOJ information that they may obtain regarding the transfer of toll-free calls to international numbers or pay-per-call services. DATCP must make similar reports to DOJ. The bill also requires DOJ and DATCP to submit joint biennial reports to the legislature on complaints received by DATCP and DOJ's enforcement of the pay-per-call provisions. The report must also include recommendations for legislation, if DOJ or DATCP determines that additional legislation is needed to enforce the pay-per-call service provisions effectively.

4. Billing services. The bill prohibits a telecommunications utility from providing billing services to a pay-per-call service provider that has been convicted of a violation of the pay-per-call service provisions, without the prior approval of the PSC. The PSC may approve the provision of billing services to a provider that has been convicted of a violation of the pay-per-call provisions only if the PSC determines that the provider has established safeguards that are sufficient to prevent further violations of these provisions. In addition, if a pay-per-call service provider is convicted of violating the pay-per-call provisions, the clerk of the court in which the conviction occurred must notify the PSC, which must notify telecommunications utilities about the conviction.

5. Penalties. Under current law, whoever violates any of the pay-per-call service provisions is subject to a forfeiture of not less than \$25 nor more than \$5,000. The bill changes the forfeiture (civil penalty) to a criminal penalty of a fine of not less than \$100 nor more than \$10,000 per violation or imprisonment for not more than 90 days, or both.

**BILL**

6. Civil liability. Under current law, a person who has been adversely affected by a violation of the pay-per-call service provisions has a claim for appropriate relief, including damages, injunctive, or declaratory relief, specific performance and rescission, costs, disbursements, and reasonable attorney fees. The bill modifies the civil liability provisions to provide for treble damages.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 196.208 (1) (bm) of the statutes is created to read:

2           196.208 (1) (bm) “Toll-free call” means a call that can be made at no charge to  
3 the calling party.

4           **SECTION 2.** 196.208 (2) (cm) of the statutes is created to read:

5           196.208 (2) (cm) A preamble shall include a statement that it is illegal for a  
6 person to transfer a toll-free call to this pay-per-call service and that, if the caller  
7 has been transferred to this pay-per-call service from a toll-free call, the caller  
8 should contact the department of agriculture, trade and consumer protection to  
9 report the transfer.

10          **SECTION 3.** 196.208 (5t) (b) of the statutes is amended to read:

11          196.208 (5t) (b) Transfer the calling party to a pay-per-call service or to an  
12 international number.

13          **SECTION 4.** 196.208 (7) (a) 1m. of the statutes is created to read:

14          196.208 (7) (a) 1m. Include on each billing statement that includes charges for  
15 pay-per-call services a clear and conspicuous notice that states: “It is illegal to  
16 transfer a call made to a toll-free number to a ‘900’ number. If you were transferred  
17 to a ‘900’ number service from a toll-free number, you should contact the state  
18 department of agriculture, trade and consumer protection to report the transfer.”

## BILL

1           **SECTION 5.** 196.208 (7) (b) (intro.) of the statutes is amended to read:

2           196.208 (7) (b) (intro.) A telecommunications utility may not provide billing  
3 services to a provider that has been convicted of a violation of this section, without  
4 the prior approval of the commission. The commission may approve the provision  
5 of billing services to a provider that has been convicted of a violation of this section  
6 only if the commission determines that the provider has established safeguards that  
7 are sufficient to prevent further violations of this section. If a telecommunications  
8 utility provides billing services to a provider, the telecommunications utility shall do  
9 all of the following:

10           **SECTION 6.** 196.208 (7m) of the statutes is created to read:

11           196.208 (7m) **REPORTING BY TELECOMMUNICATIONS UTILITIES.** Except to the  
12 extent that the report would violate federal law, a telecommunications utility shall  
13 report to the department of justice any information that it obtains concerning a  
14 possible violation of sub. (5t).

15           **SECTION 7.** 196.208 (9m) of the statutes is created to read:

16           196.208 (9m) **REPORTING REQUIREMENTS.** (a) *Biennial report.* No later than  
17 January 1 of every odd-numbered year, the departments of agriculture, trade and  
18 consumer protection and justice shall submit a joint report to the legislature under  
19 s. 13.172 (2). The report shall include information, prepared by the department of  
20 agriculture, trade and consumer protection, on complaints received concerning  
21 possible violations of this section over the previous 2-year period. The report shall  
22 also include a description, prepared by the department of justice, concerning the  
23 department's efforts in enforcing this section over the previous 2-year period. The  
24 report shall include recommendations for legislation, if the department of  
25 agriculture, trade and consumer protection or the department of justice determines

**BILL**

1 that additional legislation is needed to enforce the pay-per-call service provisions  
2 effectively.

3 (b) *Notices of convictions.* If the public service commission receives a notice  
4 from a clerk of court under s. 973.137, the public service commission shall provide  
5 a copy of the notice to all telecommunications utilities in this state.

6 **SECTION 8.** 196.208 (11) (a) 1. of the statutes is amended to read:

7 196.208 (11) (a) 1. If a provider or a toll-free service vendor fails to comply with  
8 this section, any person or class of persons adversely affected by the failure to comply  
9 has a claim for appropriate relief, including ~~but not limited to~~ treble damages,  
10 injunctive or declaratory relief, specific performance, and rescission.

11 **SECTION 9.** 196.208 (11) (bm) of the statutes is created to read:

12 196.208 (11) (bm) The department of agriculture, trade and consumer  
13 protection shall report violations of this section to the department of justice.

14 **SECTION 10.** 196.208 (11) (d) of the statutes is amended to read:

15 196.208 (11) (d) ~~Any person~~ A provider or a toll-free service vendor who  
16 violates subs. (2) to (9) ~~shall be required to forfeit~~ may be fined not less than \$25 ~~\$100~~  
17 nor more than \$5,000 ~~for each offense. Forfeitures under this~~ \$10,000 or imprisoned  
18 for not more than 90 days or both. This paragraph shall be enforced by ~~action on~~  
19 ~~behalf of the state~~ by the department of justice or, upon informing the department  
20 of justice, by the district attorney of the county where the violation occurs.

21 **SECTION 11.** 973.137 of the statutes is created to read:

22 **973.137 Courts to report convictions to the public service commission.**

23 (1) In this section:

24 (a) “Pay-per-call service provider” has the meaning given to “provider” in s.  
25 196.208 (1) (b).



**BILL**

1 (b) "Toll-free service vendor" has the meaning given in s. 196.208 (1) (c).

2 (2) If a court determines that a person has been convicted of a violation of s.  
3 196.208 (2) to (9), the clerk of the court in which such conviction occurred shall  
4 promptly forward to the public service commission the record of conviction.

5 (3) If a conviction under sub. (2) is reversed, set aside, or vacated, the clerk of  
6 the court shall promptly forward to the public service commission a certificate  
7 stating that the conviction has been reversed, set aside, or vacated.

8 (END)

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

LRB-1987/1dn

MDK:.....

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Representative Colon:

This bill is identical to Senator Moore's LRB-1327/1. 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](mailto:mark.kunkel@legis.state.wi.us)

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

LRB-1987/1dn  
MDK;jld:km

January 19, 2001

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# State of Wisconsin

## LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET  
5TH FLOOR  
MADISON, WI 53701-2037

STEPHEN R. MILLER  
CHIEF

LEGAL SECTION: (608) 266-3561  
LEGAL FAX: (608) 264-6948

January 19, 2001

### MEMORANDUM

To: Representative Colon

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-1987 Strengthening 900 pay-per-call and 800 number consumer protections

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY  JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0131 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.