

2001 ASSEMBLY BILL 117

February 13, 2001 – Introduced by Representatives SKINDRUD, AINSWORTH, BERCEAU, BLACK, CARPENTER, FREESE, GRONEMUS, HAHN, HOVEN, HUNDERTMARK, KESTELL, M. LEHMAN, LOEFFELHOLZ, MUSSER, OTT, OWENS, PETTIS, RYBA, SCHNEIDER, STASKUNAS, STEINBRINK, TOWNSEND, URBAN and STONE, cosponsored by Senators RISSER, DECKER, GROBSCHMIDT, HARSDFORF and SCHULTZ. Referred to Committee on Personal Privacy.

1 **AN ACT** *to repeal* 134.72 (2) (b) (title); *to renumber* 134.72 (1) (c) and 134.72 (2)
2 (a); *to renumber and amend* 134.72 (2) (b); *to amend* 100.264 (2) (intro.),
3 134.72 (title), 134.72 (3) (a) and 134.72 (3) (b); and *to create* 100.52 of the
4 statutes; **relating to:** prohibiting certain telephone solicitations and providing
5 a penalty.

Analysis by the Legislative Reference Bureau

Under current law, a person may not use an electronically prerecorded message in a telephone solicitation without the consent of the person called. This prohibition applies to any interstate telephone solicitation that is received by a person in this state and to any intrastate telephone solicitation. A person who violates this prohibition is subject to a forfeiture of up to \$500. Under certain circumstances, a person may be subject to a supplemental forfeiture of up to \$10,000 if the telephone solicitation was directed against an elderly person or a disabled person. Local district attorneys enforce this prohibition.

This bill requires the department of agriculture, trade and consumer protection (DATCP) to enforce the prohibition, instead of local district attorneys. In addition, the bill prohibits a person also from using an automatic telephone dialing system in making a telephone solicitation if the system is used in such a way that two or more telephone lines are engaged simultaneously. This prohibition also is enforced by DATCP. An “automatic telephone dialing system” means equipment that has the capacity to store or produce telephone numbers that are called using a random or

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sequential number generator and to call such telephone numbers. This prohibition applies to the same interstate and intrastate telephone solicitations that are subject to the prohibition under current law regarding electronically prerecorded messages. In addition, the same forfeiture and supplemental forfeiture apply.

For further information see the *state* 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.** 100.264 (2) (intro.) of the statutes is amended to read:

2 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
3 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
4 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 or 100.46, or 100.52 or
5 a rule promulgated under one of those sections, the person shall be subject to a
6 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the
7 defendant, for which the violation was imposed, was perpetrated against an elderly
8 person or disabled person and if the court finds that any of the following factors is
9 present:

10 **SECTION 2.** 100.52 of the statutes is created to read:

11 **100.52 Telephone solicitations. (1) DEFINITIONS.** In this section:

12 (a) “Automatic telephone dialing system” means equipment that has the
13 capacity to store or produce telephone numbers that are called using a random or
14 sequential number generator and to call such telephone numbers.

15 **(2) AUTOMATIC DIALING.** No person may, in making a telephone solicitation, use
16 an automatic telephone dialing system in such a way that 2 or more telephone lines
17 are engaged simultaneously.

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1 **(4) TERRITORIAL APPLICATION.** This section applies to any interstate telephone
2 solicitation received by a person in this state and to any intrastate telephone
3 solicitation.

4 **(5) PENALTY.** A person who violates this section may forfeit no more than \$500
5 for each violation.

6 **SECTION 3.** 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 4.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (b).

10 **SECTION 5.** 134.72 (2) (a) of the statutes is renumbered 100.52 (3).

11 **SECTION 6.** 134.72 (2) (b) (title) of the statutes is repealed.

12 **SECTION 7.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72
13 (2) (b), as renumbered, is amended to read:

14 134.72 **(2) (b)** Notwithstanding ~~subd. 1, par. (a)~~, a person may not make a
15 facsimile solicitation to a person who has notified the facsimile solicitor in writing
16 or by facsimile transmission that the person does not want to receive facsimile
17 solicitation.

18 **SECTION 8.** 134.72 (3) (a) of the statutes is amended to read:

19 134.72 **(3) (a)** *Intrastate.* This section applies to any ~~intrastate telephone~~
20 ~~solicitation or~~ intrastate facsimile solicitation.

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

22 134.72 **(3) (b)** *Interstate.* This section applies to any ~~interstate telephone~~
23 ~~solicitation, or~~ interstate facsimile solicitation, received by a person in this state.

24

(END)