

2001 DRAFTING REQUEST

Bill

Received: 12/12/2000

Received By: kunkemd

Wanted: As time permits

Identical to LRB:

For: Rick Skindrud (608) 266-3520

By/Representing: Al Colvin

This file may be shown to any legislator: NO

Drafter: kunkemd

May Contact:

Alt. Drafters:

Subject: Trade Regulation - other

Extra Copies: RTK, MGG

Pre Topic:

No specific pre topic given

Topic:

Prohibiting certain automatic dialing in telemarketing

Instructions:

Redraft 99-4313

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 01/16/2001	jdyer 01/16/2001		_____			State
/1			rschluet 01/25/2001	_____	lrb_docadmin 01/25/2001	lrb_docadmin 01/28/2001 lrb_docadmin 01/28/2001	

FE Sent For:

<END>

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1/1	kunkemd	1/16 jld	S 1-24-01	S HMH 1-29-01			

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<END>

D-NOTE

JLD 1431/1

RM NOT RUN

1999 ASSEMBLY BILL 760

February 17, 2000 - Introduced by Representatives SKINDRUD, STONE, HAHN, KELSO, OWENS, MUSSER, AINSWORTH, UNDERHEIM, OLSEN, GRONEMUS, PLALE, WOOD, SCHNEIDER and BLACK, cosponsored by Senators BAUMGART, SCHULTZ and RUDE. Referred to Committee on Judiciary and Personal Privacy.

Regen

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

ASSEMBLY BILL 760

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:

SECTION 1. 100.264^x (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, 100.46₃ 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:

SECTION 2. 100.52^x of the statutes is created to read:

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

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

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

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ASSEMBLY BILL 760

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)

RWF

RWF

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1431/1dn

MDK.....

date

↑
JK

Representative Skindrud:

This bill is identical to 1999 Assembly Bill 760.

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1431/1dn
MDK:jld:rs

January 24, 2001

Representative Skindrud:

This bill is identical to 1999 Assembly Bill 760.

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

Gretschmann, Karen

From: Gretschmann, Karen
Sent: Friday, January 26, 2001 1:46 PM
To: Colvin, Alan



01-1431/1



01-1431/1dn

*Karen Gretschmann
Legislative Program Assistant/Financial Specialist
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State of Wisconsin

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January 25, 2001


MEMORANDUM

To: Representative Skindrud

From: Mark D. Kunkel, Legislative Attorney

Re: LRB-1431 Prohibiting certain automatic dialing in telemarketing

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.