

2001 Jr2 DRAFTING REQUEST

Senate Amendment (SA-SSA1-AB1)

Received: **03/27/2002**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **engel**

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

Drafter: **kunkemd**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **NO**

Pre Topic:

SCC:.....engel - CN3704,

Topic:

Telephone solicitation pcnalties

Instructions:

See Attached

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>
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FE Sent For:

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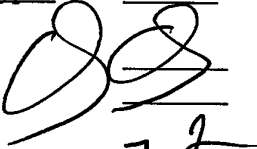
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FE Sent For:

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CN 3704

~~RET~~
MGG

Agriculture, Trade & Consumer Protection

Telephone Solicitation Penalties

Increase the maximum penalties for violating the telemarketing rules of DATCP and include a penalty enhancer for targeting seniors and the disabled.

This is Motion #280 from the Joint Committee Finance work on SSAB 1.

See attached.

Barke

AGRICULTURE, TRADE & CONSUMER PROTECTION

Telephone Solicitation Penalties

7-7

Motion:

100.52(4)(a) 2, 3.

100.52
(4)(b)

Move to change the penalty for certain telephone solicitation violations from a forfeiture not to exceed \$100 currently to a forfeiture of between \$100 to \$1,000 for each violation by a telephone solicitor of the following prohibitions and requirements: (a) unless a telephone solicitation is made in response to the recipient's express written request for the solicitation or is made to a recipient who is a current client (not including a recipient who is a current client of an affiliate of such a person, but is not a current client of such a person) of the person selling the item or requesting the contribution that is the reason for the telephone solicitation, prohibit a telephone solicitor or their employee or contractor from making a telephone solicitation to a residential customer if the nonsolicitation directory includes a listing for the residential customer or from making a telephone solicitation to a nonresidential customer if the nonresidential customer has provided notice by mail to the telephone solicitor that the nonresidential customer does not wish to receive telephone solicitations; (b) prohibit telephone solicitors (or their contractors) from using an electronically prerecorded message without the consent of the recipient of the telephone call; (c) prohibit a telephone solicitor from requiring an employee or contractor to make a telephone solicitation in violation of these requirements or to make a telephone solicitation to a person in Wisconsin unless the telephone solicitor is registered with DATCP; and (d) upon request by a nonresidential customer, require a telephone solicitor, their employee or contractor, to provide the mailing address for notifying the telephone solicitor that the nonresidential customer does not wish to receive telephone solicitations. Further, require that if the violator knows the customer called in violation of these telephone solicitation regulations is an elderly or disabled person, or if the violation causes economic, emotional or physical damage to one of these persons, a supplemental forfeiture of up to \$10,000 be assessed.

100.52
(4)(b)
2, 3, 2.

100.
52
(4)(a)
2

100.52
(4)(c)

→ 100.264(2)

✓ Change the forfeiture amount from \$100 currently to allow a forfeiture of between \$100 to \$500 for each violation of 2001 Act 16 provisions (other than those noted above) related to telephone solicitation requirements.

Note:

The enrolled 2001-03 biennial budget bill would have set forfeitures for violators of telephone solicitation regulations of \$1,000 to \$10,000 or from \$100 to \$500, depending on the violation, and created a supplemental forfeiture for violations against an elderly or disabled person. The Governor's item vetoes reduced these forfeitures to \$100 per violation and deleted the supplemental forfeiture provision. The motion sets forfeitures for violators of telephone solicitation regulations of \$100 to \$1,000 and from \$100 to \$500 respectively per violation, and restores the supplemental forfeiture provision.



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2814/1
MDK:.....

cmk

SCC:.....engel – CN3704, Telephone solicitation penalties

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS SENATE AMENDMENT ,
TO SENATE SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 1

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 1. Page 156, line 9: after that line insert:
- 3 "SECTION 267e. 100.264 (2) (intro.) of the statutes is amended to read:
- 4 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
- 5 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
- 6 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 ~~or~~, 100.46, or 100.52 (10)
- 7 (b) or a rule promulgated under one of those sections, the person shall be subject to
- 8 a supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by
- 9 the defendant, for which the violation was imposed, was perpetrated against an

1 elderly person or disabled person and if the court finds that any of the following
2 factors is present:

3 History: 1995 a. 382

3 **SECTION 267m.** 100.52 (10) (a) of the statutes, as affected by 2001 Wisconsin
4 Act 16, is amended to read:

5 100.52 (10) (a) Except as provided in par. (b), a person who violates this section
6 may be required to forfeit not less than \$100 nor more than \$500 for each violation.

7 History: 2001 a. 16 ss. 2435 to 2446f, 2819b, 2821b.

7 **SECTION 267s.** 100.52 (10) (b) of the statutes, as affected by 2001 Wisconsin Act
8 16, is amended to read:

9 100.52 (10) (b) A telephone solicitor that violates sub. (4) may be required to
10 forfeit not less than \$100 nor more than \$100 \$1,000 for each violation.”.

11 History: 2001 a. 16 ss. 2435 to 2446f, 2819b, 2821b.

11 **2.** Page 434, line 17: after that line insert:

12 “(1m) TELEPHONE SOLICITATION PENALTIES. The treatment of sections 100.264 (2)
13 (intro.) and 100.52 (10) (a) and (b) of the statutes first applies to violations that occur
14 on the effective date of this subsection.”.

15 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE
January 2002 Special Session

LRBb2814/1
MDK:cmh:rs

SCC:.....engel - CN3704, Telephone solicitation penalties

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