

2001 DRAFTING REQUEST

Bill

Received: **10/25/2001**

Received By: **gibsom**

Wanted: **Soon**

Identical to LRB:

For: **Assembly Chief Clerk**

By/Representing:

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

Drafter: **gibsom**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - electron com**

Extra Copies:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Unsolicited electronic mail

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>
/?	gibsom 10/25/2001	gilfokm 10/25/2001 gilfokm 10/26/2001		_____			
/1			jfrantze 10/30/2001	_____	lrb_docadmin 10/30/2001	lrb_docadmin 10/30/2001	

FE Sent For:

<END>

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Extra Copies: by email to all
people in salutation
line on D-Note
cc: RNK

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1?	gibsom	1-10/25 KMG	10/24	J. King 10/24			

FE Sent For:

<END>

BILL HISTORY FOR SENATE BILL 212 (LRB -2314)

An Act to create 134.74 of the statutes; relating to: restrictions on the transmission of unsolicited electronic mail.

2001

- 06-28. S. Introduced by Senators **Risser, Roessler, Burke, Decker, Huelsman and Hansen**; cosponsored by Representatives **Krug, Musser, Bock, Urban, Hahn, Albers and Ott**.
- 06-28. S. Read first time and referred to committee on Privacy, Electronic Commerce and Financial Institutions . . . 243
- 09-13. S. Public hearing held.
- 09-20. S. Public hearing held.
- 09-20. S. Executive action taken.
- 09-26. S. Report introduction and adoption of Senate amendment 1 recommended by committee on Privacy, Electronic Commerce and Financial Institutions, Ayes 5, Noes 0 (**LRB a0672**) 378
- 09-26. S. Report passage as amended recommended by committee on Privacy, Electronic Commerce and Financial Institutions, Ayes 3, Noes 2 378
- 09-26. S. Available for scheduling.
- 10-16. S. Placed on calendar 10-23-2001 by committee on Senate Organization.
- 10-23. S. Read a second time 423
- 10-23. S. Senate amendment **1** adopted 423
- 10-23. S. Senate amendment 2 offered by Senator **Risser (LRB f49)** 423
- 10-23. S. Senate amendment **2** adopted 423
- 10-23. S. Senate amendment 3 offered by Senator **Risser (LRB f50)** 423
- 10-23. S. Senate amendment **3** adopted 423
- 10-23. S. Senate amendment 4 offered by Senator **Huelsman (LRB a0821)** 423
- 10-23. S. Senate amendment 1 to Senate amendment 4 offered by Senator **Huelsman (LRB f52)** 423
- 10-23. S. Senate amendment **1** to Senate amendment **4** adopted 423
- 10-23. S. Senate amendment **4** adopted 423
- 10-23. S. Ordered to a third reading 423
- 10-23. S. Rules suspended 423
- 10-23. S. Read a third time and **passed** 423
- 10-23. S. Ordered immediately messaged 424
- 10-29. A. Received from Senate.
- 10-29. A. Read first time and referred to joint committee on Information Policy and Technology.
- 10-29. A. **Printed engrossed** by the direction of the Assembly Chief Clerk.

Due 10/26

FREEZE SECTIONS

RM not R

(To Be Printed for Legislature)

ENGROSSED 2001 SENATE BILL 212

(Date) October 29, 2001 - Printed by direction of ASSEMBLY CHIEF CLERK

JOINT RULE 63 **Reproduction of engrossed measures.** Upon the finding by the chief clerk of either house that a bill, joint resolution, resolution or major amendment thereto has been amended in the house of origin to a considerable degree, the chief clerk may instruct the legislative reference bureau to prepare and have reproduced an engrossed copy of the measure. In preparing engrossed copy for a bill, joint resolution or resolution the legislative reference bureau shall, if time permits, provide it with a revised analysis. Upon receipt from the legislative reference bureau of the engrossed copy, the chief clerk shall enter that fact in the history file for the measure. Any subsequent amendments to a measure ordered reproduced with all adopted amendments engrossed therein shall be drafted to the reproduced engrossed text.

ADOPTED DOCUMENTS:

Orig SubAmdt

2314 11

Amendments to above (if none, write "NONE"): SA 1 to SB 212, SA 2 to SB 212, SA 3 to SB 212, SA 4 to SB 212, SA 4 to SB 212

Corrections - show date (if none, write "NONE"): NONE

10/25/01
Date

Mary Gibson Glass
Drafter

KMG
Editor

ELECTRONIC PROCEDURE: Follow automatic or manual engrossing procedures in *TEXT2000 Reference Guide*, Document Specific Procedures, Ch. 20, Engrossing and Enrolling.

LEGISLATIVE PROCESSING SPECIALIST: Give paper copy of engrossed bill to drafter for final check before forwarding.

Make 15 copies of ENGROSSED BILL: Enter introductory information on engrossed bill cover sheet corresponding to the house of the chief clerk who directed the engrossed bill printed. Distribute copies and send copy of engrossed bill electronically to DOA for printing.

DISTRIBUTION:

DIRECTING CHIEF CLERK:

- Cover sheet and 9 copies

LRB:

- Drafting file original

- Drafting attorney 1 copy
- Legislative editors 1 copy each
- Bill index librarian 1 copy

2001 SENATE BILL 212

June 28, 2001 - Introduced by Senators ~~RISSER, ROESSLER, BURKE, DECKER, HUELSMAN and HANSEN~~, cosponsored by Representatives ~~KRUG, MUSSER, BOCK, URBAN, HAHN, ALBERS and OTT~~. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

- Gen. Cat.*
- 1 AN ACT *to create* 134.74 of the statutes; relating to: restrictions on the
 2 transmission of unsolicited electronic mail.

Analysis by the Legislative Reference Bureau

Current law restricts the transmittal of unsolicited messages by facsimile machine for the purpose of encouraging customers to purchase property, goods, or services. This bill imposes similar restrictions on the transmittal of unsolicited electronic mail for this purpose. Under the bill, a person sending such electronic mail (solicitor) may not transmit an unsolicited message without the consent of the person being solicited unless the message is sent during nighttime hours and will be less than one page in length if printed and the person being solicited has or has had a previous business relationship with the solicitor.

The bill also imposes a prohibition on any electronic mail solicitation to a person who has notified a solicitor in writing or by electronic mail that the person does not want to receive electronic mail solicitations.

The restrictions and prohibitions under the bill do not apply to a person who provides computer users with access to a computer network and who, as part of that service, transmits electronic mail to those users.

INS
ANL

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

- 3 SECTION 1. 134.74 of the statutes is created to read:

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4114?ins

.....

(B)+(I)

Ins. ANL

Engrossment information:

The text of Engrossed 2001 Senate Bill 212 consists of the bill, as affected by the following documents adopted in the senate on October 23, 2001: the bill as affected by Senate Amendment 1, Senate Amendment 2, Senate Amendment 3, and Senate Amendment 4 (as affected by Senate Amendment 1 thereto).

^

**SENATE AMENDMENT 1,
TO 2001 SENATE BILL 212**

September 26, 2001 - Offered by PRIVACY, ELECTRONIC COMMERCE AND FINANCIAL INSTITUTIONS.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 2, line 14: after "mail" insert ^{INS} ~~at~~, at least 30 days before the solicitor
3 makes the solicitation, ~~and~~ SA-1A

4 ✓ 2. Page 2, line 19: after "users." insert ^{INS} ~~Nothing in this section shall be~~
5 construed to prohibit a provider of Internet access service from adopting and
6 implementing a more restrictive policy, or entering into and enforcing a more
7 restrictive contract, under which the provider may decline to transmit any electronic
8 mail solicitation that violates that policy or contract". SA-1B

9 (END)

**SENATE AMENDMENT 2,
TO 2001 SENATE BILL 212**

October 23, 2001 - Offered by Senator **RISSER**.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 2, line 21: after that line insert:

3 ~~(6)~~ **(6) DAMAGES.** (a) A solicitor who violates sub. (2) or (3) is liable to the person
4 solicited in an amount equal to the person's damages or \$10 for each electronic mail
5 solicitation made to the person in violation of sub. (2) or (3), whichever is greater.

6 (b) In addition to the amounts under par. (a), a person who recovers damages
7 under par. (a) may recover costs and, notwithstanding s. 814.04 (1), attorney fees.

8 **(7) INJUNCTIVE RELIEF.** A court may grant an injunction against a person who
9 violates this section, in addition to awarding damages under sub. (6).^o

10

(END)

Ins
SA-
2

**SENATE AMENDMENT 3,
TO 2001 SENATE BILL 212**

October 23, 2001 -- Offered by Senator RISSER.

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 2, line 12: after that line insert:

3 (d) The legal name, street address, and electronic mail address of the
4 solicitor.

INS
SA-3

5

(END)

**SENATE AMENDMENT 4,
TO 2001 SENATE BILL 212**

October 23, 2001 - Offered by Senator HUELSMAN.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 7: delete lines 7 to 12 and substitute:

3 (2) RESTRICTIONS. No solicitor may make an electronic mail solicitation to a
4 person without the consent of the person solicited unless any of the following applies:

5 (a) The person solicited has or had a business or personal relationship with the
6 solicitor.

7 (b) The electronic mail solicitation contains a statement that it is made for the
8 purpose of encouraging the person to purchase property, goods, or services.

9 (END)

INS
SA-4

INS "KA" from
SA1 - SA4

attached



**SENATE AMENDMENT 1,
TO SENATE AMENDMENT 4,
TO 2001 SENATE BILL 212**

October 23, 2001 - Offered by Senator HUELSMAN.

1 At the locations indicated, amend the amendment as follows:

2 1. Page 1, line 8: after that line insert:

3 "This language shall not effect the language inserted by sen. am. 3".

Ins. "KA"

(END)

SA2 + 5A4

text: treat ¶

amdt. reprinted
to correct
typo

a



D-Note

Today 10/30

ENGROSSED 2001 SENATE BILL 212

Handwritten signature

October 23, 2001 - Printed by direction of ASSEMBLY CHIEF CLERK.

9

Sean change the date; [scribbles]

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2 transmission of unsolicited electronic mail.

Analysis by the Legislative Reference Bureau

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The text of Engrossed 2001 Senate Bill 212 consists of the bill, as affected by the following documents adopted in the senate on October 23, 2001: the bill as affected by Senate Amendment 1, Senate Amendment 2, Senate Amendment 3, and Senate Amendment 4 (as affected by Senate Amendment 1 thereto).

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

3 SECTION 1. 134.74 of the statutes is created to read:

4 **134.74 Restrictions on unsolicited electronic mail.** (1) DEFINITIONS. In
5 this section:

6 (a) "Electronic mail solicitation" means the unsolicited transmission of a
7 message by electronic mail for the purpose of encouraging a person to purchase
8 property, goods, or services.

ENGROSSED SENATE BILL 212

1 (b) "Solicitor" means a person who makes an electronic mail solicitation.

2 (2) RESTRICTIONS. No solicitor may make an electronic mail solicitation to a
3 person without the consent of the person solicited unless any of the following applies:

4 (a) The person solicited has or had a business or personal relationship with the
5 solicitor.

6 (b) The electronic mail solicitation contains a statement that it is made for the
7 purpose of encouraging the person to purchase property, goods, or services.

8 This language shall not affect the language inserted by sen. am. 3.

9 (d) The legal name, street address, and electronic mail address of the solicitor.

10 (3) PROHIBITION. No solicitor may make any electronic mail solicitation to a
11 person who has notified the solicitor in writing or by electronic mail, at least 30 days
12 before the solicitor makes the solicitation, that the person does not want to receive
13 electronic mail solicitations.

14 (4) EXCEPTIONS. Subsections (2) and (3) do not apply to a person who provides
15 computer users with access to a computer network and who, as part of that service,
16 transmits electronic mail solicitations, other than electronic mail solicitations
17 prepared by the person providing access to the computer network, to those users.
18 Nothing in this section shall be construed to prohibit a provider of Internet access
19 service from adopting and implementing a more restrictive policy, or entering into
20 and enforcing a more restrictive contract, under which the provider may decline to
21 transmit any electronic mail solicitation that violates that policy or contract.

22 (5) TERRITORIAL APPLICATION. This section applies to any electronic mail
23 solicitation received by a person in this state.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4114/1dn
MCG:kmg:jf

Attention: Senator Fred Risser, ^{Senator} Joanne Huelsman, Senator Robert Jauch,
Representative Shirley Krug, Representative Mark Pettis and Legislative Council
Staff Dan Schmidt and John Stolzenberg

The Legislative Reference Bureau requested that the Assembly order that this bill
be printed engrossed because it was heavily amended by the Senate.

As you review this ^{printed} engrossed bill, you will note ^{that} Senate Amendment 3 and Senate
Amendment 1 to Senate Amendment 4 (which were floor amendments) create
problems in this bill. This problematic language is found on page 2, lines 8 and 9, of
the engrossed bill. I suggest that the Joint Committee on Information Technology
and Policy address and resolve these problems before the bill is voted on in
committee. Either Robin Kite or I, as the drafters of this legislation, will be happy
to prepare any amendments to this bill that you would like to have considered in
committee to address these problems.

Mary Gibson-Glass
Senior Legislative Attorney
Phone: (608) 267-3215

Emery, Lynn

From: Emery, Lynn
Sent: Tuesday, October 30, 2001 11:51 AM
To: Sen.Risser; Sen.Huelsman; Sen.Jauch; Rep.Krug; Rep.Pettis; Schmidt, Dan; Stolzenberg, John
Cc: Kite, Robin
Subject: Engrossed 2001 SB 212 (LRB-4114/1 & 1dn) (attached)

Lynn Emery

Lynn Emery - Program Asst. (PH. 608-266-3561)
(E-Mail: lynn.emery@legis.state.wi.us) (FAX: 608-264-6948)

Legislative Reference Bureau - Legal Section - Front Office
100 N. Hamilton Street - 5th Floor
Madison, WI 53703

10/30/2001

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