

2003 DRAFTING REQUEST

Bill

Received: **09/18/2002**

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Risser (608) 266-1627**

By/Representing: **Leslie Travis**

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

Drafter: **mglass**

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:

01 SB 212, including amendments

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>
/?							
/1	mglass 09/25/2002	kgilfoy 09/26/2002	jfrantze 09/27/2002	_____	sbasford 09/27/2002	sbasford 01/15/2003	
				_____		sbasford 01/15/2003	

FE Sent For:

None Needed

<END>

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FE Sent For:

1-9/26
King

<END>

Gibson-Glass, Mary

From: Miller, Steve
Sent: Monday, September 16, 2002 9:58 AM
To: Gibson-Glass, Mary
Subject: FW: 2001 SB 212 relating to unsolicited email

Mary,
Will you redraft this for Sen. Risser?
Steve

-----Original Message-----

From: Travis, Leslie
Sent: Monday, September 16, 2002 9:47 AM
To: Miller, Steve
Subject: 2001 SB 212 relating to unsolicited email

Hi Steve, Would you please assign a draft request for a redraft of SB 212 relating to unsolicited email. The new draft for this session should include the amendments that the Senate adopted to it. Thank you. Leslie Travis

2003
ENGROSSED 2001 SENATE BILL 212

D-N

~~October 29, 2001~~ - Printed by direction of ASSEMBLY CHIEF CLERK.

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

Analysis by the Legislative Reference Bureau

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).

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

INS
ANL

3 SECTION 1. 134.74⁵ of the statutes is created to read:

4 134.74⁵ 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

SECTION 1

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~~ ^{STET} of the following applies:

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

6 (b) The electronic mail solicitation contains a statement that ~~is~~ ^{the solicitor} 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 (c) ~~(d)~~ ^{The electronic mail solicitation contains} 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.

2003

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.

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. **INSERT ANL 1**

INS
ANL

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.

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:

2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0135/?ins
MGG:.....

INS ANL 1 ✓

No 9

, the solicitation contains the legal name, street address, and electronic mail address of the solicitor, or the solicitation contains a statement that it is being made for the purpose of encouraging the person being solicited to purchase property, goods, or services.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0135/rdn

MGG:....

King

Two of the floor amendments, adopted by the senate, to 2001 SB-212 did not perfectly mesh with the text of the bill. Please review this redrafted bill carefully to make sure it complies with your intent. In that regard please note that the solicitation is exempt from the restriction under s. 134.74 (2) if it meets only one of the conditions under s. 134.74 (2) (a) to (c); it does not have to meet all of them to be exempt.

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

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

LRB-0135/1dn
MGG:kmg:jf

September 27, 2002

Two of the floor amendments, adopted by the senate, to 2001 SB-212 did not perfectly mesh with the text of the bill. Please review this redrafted bill carefully to make sure that it complies with your intent. In that regard please note that the solicitation is exempt from the restriction under s. 134.75 (2) if it meets only one of the conditions under s. 134.75 (2) (a) to (c); it does not have to meet all of them to be exempt.

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



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

September 27, 2002

MEMORANDUM

To: Senator Risser

From: Mary Gibson-Glass, Senior Legislative Attorney

Re: LRB-0135/1 Unsolicited electronic mail

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) 267-3215 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.