

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB1029)

Received: **02/27/2006**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Brett Davis (608) 266-1192**

By/Representing: **Luke Bacher**

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

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - electron com**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Davis@legis.state.wi.us**

Carbon copy (CC:) to: **christopher.sundberg@legis.state.wi.us**

Pre Topic:

No specific pre topic given

Topic:

DATCP revisions

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> |
|--------------|------------------------|--------------------|-----------------------|----------------|------------------------|------------------------|-----------------|
| /? | csundber 02/28/2006 | jdye 02/28/2006 | | _____ | | | |
| /1 | | | chaugen 02/28/2006 | _____ | sbasford 02/28/2006 | sbasford 02/28/2006 | |

FE Sent For:

<END>

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | csundber | 1/28 jcd | ch 2-28 | OK 3/12 | | | |

FE Sent For:

<END>

Sundberg, Christopher

From: Bacher, Luke
Sent: Monday, February 27, 2006 5:38 PM
To: Sundberg, Christopher
Subject: Changes to AB 1029

Importance: High

Chris -

Here are the changes we would like to see. Thank you for getting this done as soon as possible.

Luke Bacher
Legislative Assistant
Office of State Representative Brett Davis
(608)-266-1192
Toll Free: 888-534-0080
Luke.Bacher@legis.state.wi.us
<http://www.brettdavis.us>

AB 1029 - Family & School Communications Protection Registry (Child Protection Registry)

Send – page 4, line 20

✓ As defined only covers the transmission of a message, it does not cover the origination, who generated or crafted the message.

Possible suggestion: “means to originate or transmit a message or to procure the origination or transmission of a message, but does not include actions that constitute routine conveyance of a message, such as the transmission of a message by an Internet service provider or wireless service provider.”

Registration – page 5, line 4

✓ Currently, this bill only allows the parent, guardian or legal custodian of a minor, to register a contact point that pertains to the minor or to the parent, guardian or legal custodian.

Other states permit a parent, guardian, individual who is responsible for a contact point to which a minor may have access may register that contact point.

✓ Domains - page 5, line 11

Strike "state" so that it reads: or an institution that primarily serves minors...

✓ Notify DOJ – page 6, line 4 though 7

DOJ is already our attorney for cases that require enforcement action. There is no need and don't believe they want to receive a report for every message that has been sent in violation.

Correction: Strike the sentence.

✓ Private action – page 7, line 9

Need a private right where one can recover an amount for receiving a message in violation or recover “damages” should they exist, or whichever is greater.

Add: Private individuals may be awarded actual damages or civil damages as described under sub (4) (a) (1) and (4) (a) (2).

✓ Safe Harbor - page 7, line 23
Remove Safe Harbor.

Rule timeline

Suggested Revisions for AB 1029 pertaining to DATCP rulemaking issue:

Page 4, line 9-11

Change wording to say:

✓ (b) "Electronic identifier" means a number, code, or other identifier that could be used to initiate an electronic communication with a minor, as may be determined by the department by rule.

✓ Page 4, line 23
Strike the word "rules". At the end of the heading.

Page 5, line 3. At end of the sentence add:

The Department shall establish a procedure for the registry in accordance with s. 93.07(2).

(Luke, please note that 93.07(2) gives the department the authority to prescribe forms for applications. This allows us to set up the procedure needed for the registry, thus a rule is not necessary using this authority and the procedure does not need to be outlined specifically in the law.)

Page 5, line 17 - 23.

Strike this section completely.

✓ Page 6, line 19 - 21

Change wording to say:

(c) Except as may otherwise be permitted by rule, no person may obtain or provide to another information contained in the registry under sub. (2)(a).

✗ Page 9, line 5-17

Strike section 9 completely.

Page 9, line 20-21

Strike this language, no longer necessary.

need to create exemption
under ch. 227.



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa25307 / RMNR
CTS:.....
jld

Now

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

**ASSEMBLY AMENDMENT ,
TO 2005 ASSEMBLY BILL 1029**

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

2 **1.** Page 1, line 3: delete the material beginning with "providing" and ending
3 with "authority," on line 5. ✓

4 **2.** Page 4, line 9: delete the material beginning with "may" and ending with
5 "department" on line 11 ✓ and substitute "can be used to initiate an electronic
6 communication with a minor, as the department may determine". ✓

7 **3.** Page 4, line 20: after "message," insert "or to procure transmission of a
8 message,". ✓

9 **4.** Page 4, line 23: delete "; RULES". ✓

10 **5.** Page 5, line 5: delete lines 5 and 6 and substitute "department shall include
11 in the registry a contact point for which the parent, guardian, or legal custodian is

1 responsible, if the contact point may be accessed by the minor. The department may
2 not charge a fee". ✓

3 **6.** Page 5, line 11: delete "a state" and substitute "an". ✓

4 **7.** Page 5, line 17: delete "promulgate rules for" ✓ and substitute "do".

5 **8.** Page 5, line 18: delete "Establishing, maintaining, and monthly updating"
6 and substitute "Establish, maintain, and monthly update". ✓

7 **9.** Page 5, line 19: delete "Establishing" and substitute "Establish". ✓

8 **10.** Page 6, line 6: delete lines 6 and 7 and substitute "section.".

9 **11.** Page 6, line 19: delete the material beginning with "the rules" and ending
10 with "(2) (d)" on line 20 and substitute "rules the department may promulgate". ✓

11 **12.** Page 7, line 9: delete lines 9 to 19 ✓ and substitute:

12 "(c) *Private action.* ✓ 1. A parent, guardian, or legal custodian of a minor who has
13 registered a contact point under sub. (2) (b) ✓ may commence an action for to recover
14 damages as specified in subd. 3. ✓ against a person who sends a restricted message to
15 the contact point in violation of sub. (3) (a). ✓ Notwithstanding s. 814.04 (1), a court
16 shall award reasonable attorney fees to a plaintiff who prevails in an action under
17 this subdivision. ✓

18 2. A parent, guardian, or legal custodian of a minor who has obtained an
19 electronic mail address that contains a registered domain name may commence an
20 action for damages as specified in subd. 3. ✓ against a person who sends a restricted
21 message to the electronic mail address in violation of sub. (3) (b). ✓ Notwithstanding
22 s. 814.04 (1), a court shall award reasonable attorney fees to a plaintiff who prevails
23 in an action under this subdivision. ✓

#. Page 7, line 3: before "\$1,000" insert "An amount
equal to".
#. Page 7, line 4: before "\$3,000" insert "An amount
equal to".

1 3. A parent, guardian, or legal custodian of a minor who prevails in an action
2 under subd. 1. or 2. shall recover as damages the greater of the following:

3 a. The amount of actual damages sustained by the parent, guardian, or legal
4 custodian as a result of the violation of this section.

5 An amount equal to
6 b. \$1,000 per message sent in violation of sub. (3) (a) or (b) to a contact point
7 registered by the parent, guardian, or legal custodian, or to an electronic mail
8 address obtained by the minor.

9 c. \$3,000 per message sent in violation of ^{sub.} (3) (a) or (b) to a contact point
10 registered by the parent, guardian, or legal custodian, or to an electronic mail
11 address obtained by the minor, if the message is viewed by the minor.”.

12 **13.** Page 7, line 23: delete lines 23 to 25.

13 **14.** Page 8, line 7: after that line insert:

14 “**SECTION 5m.** 227.01 (13) (zw) of the statutes is created to read:

15 227.01 (13) (zw) Establishes procedures for the creation, maintenance, and
16 updating of the family and school communications registry under s. 100.54, or
17 establishes procedures for verifying that a contact point, as defined in s. 100.54 (1)
18 (a), is not a registered contact point or an electronic mail address containing a
19 registered domain name.”.

20 **15.** Page 9, line 5: delete lines 5 to 17.

21 **16.** Page 9, line 18: delete the material beginning with “publication,” and
22 ending with “after” on line 21. lines 18 to 21 and substitute:

(END)

“SECTION 10m. Effective date.
10m) This act takes effect on the first day of
the 6th month beginning after publication.”