

2005 DRAFTING REQUEST

Senate Amendment (SA-AB1014)

Received: **03/06/2006**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **Mike Richards**

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

Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Telephone service provider exemptions

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 03/06/2006	lkunkel 03/07/2006		_____			
/1			chaugen 03/07/2006	_____	sbasford 03/07/2006	sbasford 03/07/2006	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Senate Amendment (SA-AB1014)

Received: 03/06/2006

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Ted Kanavas (608) 266-9174**

By/Representing: **Mike Richards**

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

-Drafter: **csundber**

May Contact:

Addl. Drafters:

Subject: **Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Kanavas@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Telephone service provider exemptions

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	1 wij 3/6	ch 3/6	ch 3/6 del			

FE Sent For:

<END>

Sundberg, Christopher

From: Richards, Mike
Sent: Monday, March 06, 2006 11:33 AM
To: Sundberg, Christopher
Subject: Amendment

Chris,

Could I get a Senate Amendment drafted to AB 1014--it will be up this week, possibly tomorrow.

Here is what we would like to see:

✓ "Restitution A person found guilty of an offense under subsections ____ above shall, in addition to any other punishment, be ordered to make restitution for any financial loss sustained by the customer or any other person who suffered financial loss as the direct result of the offense. Customers who are harmed as a result of the offense will be entitled to restitution in (1) the amount of the person's pecuniary loss, or \$1,000, whichever is greater, and (2) the amount of gain to the violator as a result of the violation." If this is not acceptable to others we should ask for a simple statement to be inserted in the bill that nothing in the bill authorizes a private right of action against the telcos in the state under the terms of the bill.

(1) Regarding the private right of action, section on page 4 line 22, if we can not eliminate it totally, we should offer the restitution paragraph below as a substitute. Restitution serves the same purpose, and applies when a data miner has been convicted of the offense. The language below is from the modified Cingular bill. Restitution A person found guilty of an offense under subsection ____ shall, in addition to any other punishment, be ordered to make restitution for any financial loss sustained by the customer or any other person who suffered financial loss as the direct result of the offense.

2
- (2) We should attempt to have a broader exemption for Caller I.D. If possible we should delete the "except a caller identification record" phrase from 100.55(1)(b) [page 2 lines 9-10] and add the following at the end of the section: . For purposes of this statute any information collected and retained by or on behalf of customers utilizing Caller I.D., or other similar technology, does not constitute a telephone record. (We need to avoid the criminalizing production of reports to Yellow pages and other advertizers about calls to contact numbers identified in advertisements.) *How does this relate to Y.P.?*

(3) Finally, it would be better if we could get broader protections for telephone service providers. The current language on page 4 lines 9-17 appears to be based on the model modified Cingular bill but is not as comprehensive. If possible we should substitute the following language from the model bill:

"PERMITTED USE BY TELEPHONE COMPANIES (a) No provision of this section shall be construed to prohibit a telephone company from obtaining, using, disclosing, or permitting access to any telephone record, either directly or indirectly through its agents—(1) as otherwise authorized by law; — *redundant*

(2) with the lawful consent of the customer; — *redundant*

(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the telephone company, or to protect the customer of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services;

(4) to a governmental entity, if the telephone company reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto

under section 227 of the Victims of Child Abuse Act of 1990.

2
6 (b) No provision of this Section shall apply to or expand upon the obligations and duties of any telephone company to protect telephone records beyond those otherwise established by federal and/or state law or as set forth in Section _ above.

(c) No provision of this Section shall apply to a telephone company, its agents and/or representatives, who reasonably and in good faith acts pursuant to this section, notwithstanding any later determination that such action was not in fact authorized. "

The current draft bill includes some but not all the language in subsection a above. There is no language similar to ubsections b and c above and this language provides us good protection.

This is to allow some protections for the phone companies that are being breached. Thanks Chris!

Michael D. Richards

Michael D. Richards

Office of State Senator Ted Kanavas

State Capitol, Room 10 South

Madison, WI 53707-7882

608-266-9174

3/6/06

Per Bill Smith (Verizon):

1. Delete private c/a.
2. Substitute "restitution" per email.
3. Ignore remaining items in email
(OK by Mike Richards)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2675/20
CTS:.....
WLj
RMNR

In: 3/6/06
Due: Tues. AM

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SENATE AMENDMENT, ✓
TO 2005 ASSEMBLY BILL 1014 ✓

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

2 ✓ 1. Page 4, line 3: after "(4)" insert "(a)".

3 ✓ 2. Page 4, line 5: after that line insert:

4 "(b) In an action to enforce this section, the court shall award to a person who
5 is the subject of a telephone record involved in a violation of this section all of the
6 following:

7 1. The amount of ^{the} ~~any~~ ^{2/5} ~~any~~ pecuniary loss suffered because of a violation
8 of this section, if proof of the loss is submitted to the satisfaction of the court, or
9 \$1,000, whichever is greater.

10 2. The amount of any gain to the violator as a result of the violation."

Barman, Mike

From: Barman, Mike
Sent: Tuesday, March 07, 2006 11:04 AM
To: Sen.Kanavas
Cc: Richards, Mike
Subject: LRB 05a2675/1 (attached - requested by Mike)

Attachments: 05a2675/1



05a26751.pdf (10
KB)