

## 2007 DRAFTING REQUEST

### Bill

Received: 01/04/2007

Received By: csundber

Wanted: As time permits

Identical to LRB:

For: Jon Erpenbach (608) 266-6670

By/Representing: Scott Ross

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.Erpenbach@legis.wisconsin.gov

Carbon copy (CC:) to: christopher.sundberg@legis.wisconsin.gov

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### Pre Topic:

No specific pre topic given

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### Topic:

Telephone solicitations: remove restrictions relating to residential vs. nonresidential customers.

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### Instructions:

Redraft 05-0298/1

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### 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 01/08/2007	kfollett 02/06/2007		_____			State
/1	csundber 02/07/2007	kfollett 02/09/2007	rschluet 02/07/2007	_____	cduerst 02/07/2007		State
/2	csundber 02/21/2007	kfollett 02/22/2007	pgreensl 02/09/2007	_____	cduerst 02/09/2007	mbarman 02/12/2007 mbarman 02/12/2007	State

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/3	csundber 03/01/2007	kfollett 03/01/2007	nmatzke 02/22/2007	_____	sbasford 02/22/2007	sbasford 02/22/2007	State
/4			jfrantze 03/01/2007	_____	sbasford 03/01/2007	sbasford 03/01/2007	

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3-20-07

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14/10/07  
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Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

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nmatzke \_\_\_\_\_  
02/22/2007 \_\_\_\_\_

sbasford  
02/22/2007

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Redraft 05s0127

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Handwritten signatures and initials: 2/8 ps, ps 1/9/06, and <END>

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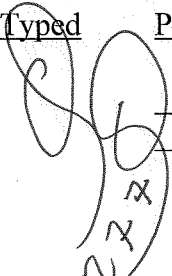
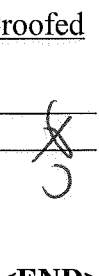
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FE Sent For:							

<END>

ln: 1/8/07

2/7 cmh

-1339/1

F 8  
2005 - 2006 LEGISLATURE

LRBs0127/1  
CTS:ln:cmh

kgf

PWF

**SENATE SUBSTITUTE AMENDMENT,  
TO 2005 SENATE BILL 116**

2007 BILL

d-note

regen.

1 AN ACT *to repeal* 100.52 (1) (b), (d), (f) and (h), 100.52 (10) (b) and 134.72 (4); *to*  
 2 *renumber* 134.72 (title) and (1) to (3); *to renumber and amend* 100.52 (10)  
 3 (a); *to amend* 100.52 (2) (a), 100.52 (2) (b), 100.52 (3) (a), 100.52 (4) (a) 2., 100.52  
 4 (4) (a) 3., 100.52 (4) (c), 134.95 (2), 767.265 (2r) and 968.01 (1); and *to create*  
 5 13.101 (18), 100.52 (1) (bm), 100.52 (3) (am) and 100.53 (4) of the statutes;  
 6 **relating to:** prohibitions against certain telephone and facsimile solicitations,  
 7 and providing a penalty.

***Analysis by the Legislative Reference Bureau***

Current law regulates telephone solicitation, defined as the unsolicited initiation of a telephone conversation for the purpose of encouraging the recipient of the telephone call to purchase property, goods, or services. Generally, under current law, a telephone solicitor may not make a telephone solicitation to a residential customer if the customer's telephone number is included in a directory, maintained by the Department of Agriculture, Trade and Consumer Protection (DATCP), listing residential customers who do not wish to receive telephone solicitations. This substitute amendment alters current law regarding telephone solicitations as follows.

→

bill

2 Bill (x6)

1. Current law regulates telephone solicitations made to traditional "land line" customers. This ~~substitute amendment~~ broadens current law to include cellular telephone customers. As a result, the directory may include a customer's cellular telephone number, and telephone solicitors may not make telephone solicitations to cellular telephone numbers that are included in the directory.

2. Current law allows only individuals to request inclusion in the directory. Under the ~~substitute amendment~~ a small business, as defined in the ~~substitute amendment~~ may request inclusion of a land line number or cellular telephone number in the directory.

3. Under current law, telephone solicitors must register with DATCP and pay an annual fee that is based on the cost of maintaining the directory. Under the ~~substitute amendment~~ DATCP must collect the registration fee in quarterly installments, but DATCP must reduce or waive installments if DATCP estimates that, at the end of the fiscal year, its fee collections will exceed expenditures for maintaining the directory by 15 percent or more.

Current law also prohibits facsimile solicitations without the consent of the recipient, unless certain conditions are met. Also, a facsimile solicitor must honor a recipient's written or facsimile request not to receive facsimile solicitations. Under current law, district attorneys are authorized to enforce these provisions through forfeiture actions. This ~~substitute amendment~~ increases the maximum forfeiture and transfers investigation and enforcement authority for these provisions to DATCP. Under the ~~substitute amendment~~ DATCP also administers these provisions.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

telephone  
or

and may not disclose such a recipient's facsimile number to another person

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

- 1 SECTION 1. 13.101 (18) of the statutes is created to read:
- 2 13.101 (18) Notwithstanding sub. (4), the committee may not transfer funds
- 3 from the appropriation under 20.115 (8) (jm).
- 4 SECTION 2. 100.52 (1) (b), (d), (f) and (h) of the statutes are repealed.
- 5 SECTION 3. 100.52 (1) (bm) of the statutes is created to read:
- 6 100.52 (1) (bm) "Customer" means an individual or small business in this state
- 7 that is furnished with telecommunications service. In this paragraph, "small
- 8 business" has the meaning given in s. 227.114 (1).

1           **SECTION 4.** 100.52 (2) (a) of the statutes is amended to read:

2           100.52 (2) (a) Upon a request by a residential customer, the department shall  
3 include in the nonsolicitation directory a listing indicating that the residential  
4 customer does not want to receive <sup>any</sup> telephone solicitations <sup>made</sup> on behalf of a  
5 telephone solicitor.

6           **SECTION 5.** 100.52 (2) (b) of the statutes is amended to read:

7           100.52 (2) (b) The department shall promulgate rules for establishing,  
8 maintaining, and semiannually updating a directory that includes listings of  
9 residential customers who do not wish to receive telephone solicitations made on  
10 behalf of telephone solicitors. The rules promulgated under this paragraph shall  
11 establish requirements and procedures for a residential customer to request a listing  
12 in the directory. The rules shall also require a residential customer who requests a  
13 listing in the directory to notify the department on a biennial basis if the residential  
14 customer wishes to continue to be included in the directory. The department shall  
15 eliminate a residential customer from the directory if the customer does not make  
16 the biennial notification.

17           **SECTION 6.** 100.52 (3) (a) of the statutes is amended to read:

18           100.52 (3) (a) The department shall promulgate rules that require any  
19 telephone solicitor who requires an employee or contractor to make a telephone  
20 solicitation to a residential customer in this state to register with the department,  
21 obtain a registration number from the department, and pay a registration fee to the  
22 department in quarterly installments. The amount of the registration fee shall be  
23 based on the cost of establishing the nonsolicitation directory, and the amount that  
24 an individual telephone solicitor is required to pay shall be based on the number of  
25 telephone lines used by the telephone solicitor to make telephone solicitations. The



1 rules shall also require a telephone solicitor that registers with the department to  
2 pay an annual registration renewal fee to the department. The amount of the  
3 registration renewal fee shall be based on the cost of maintaining the nonsolicitation  
4 directory.

5 **SECTION 7.** 100.52 (3) (am) of the statutes is created to read:

6 100.52 (3) (am) Annually, no later than January 1, the department shall  
7 estimate the total expenditures from the appropriation under s. 20.115 (8) (jm) in  
8 that fiscal year and the unencumbered balance that will remain in the appropriation  
9 under s. 20.115 (8) (jm) at the end of that fiscal year. If the estimated unencumbered  
10 balance exceeds 15 percent of the estimated expenditures from that appropriation  
11 the department shall reduce or waive one or more quarterly installments under par.  
12 (a). The department shall apply any reduction or waiver under this paragraph  
13 proportionally to all telephone solicitors registered under par. (a).

14 **SECTION 8.** 100.52 (4) (a) 2. of the statutes is amended to read:

15 100.52 (4) (a) 2. Make a telephone solicitation to a residential customer if the  
16 nonsolicitation directory that is provided or made available to the telephone solicitor  
17 under sub. (2) (d) includes a listing for the residential customer.

18 **SECTION 9.** 100.52 (4) (a) 3. of the statutes is amended to read:

19 100.52 (4) (a) 3. Make a telephone solicitation to a nonresidential customer if  
20 the nonresidential customer has provided notice by mail to the telephone solicitor  
21 that the nonresidential customer does not wish to receive telephone solicitations.

22 **SECTION 10.** 100.52 (4) (c) of the statutes is amended to read:

23 100.52 (4) (c) A telephone solicitor or employee or contractor of a telephone  
24 solicitor that makes a telephone solicitation to a nonresidential customer person in  
25 this state shall, upon the request of the nonresidential customer person, provide the

1 mailing address for notifying the telephone solicitor that the nonresidential  
2 customer person does not wish to receive telephone solicitations.

3 SECTION 11. 100.52 (10) (a) of the ~~statutes~~ statutes is renumbered 100.52 (10) and  
4 amended to read:

5 100.52 (10) ~~Except as provided in par. (b), a~~ A person who violates this section  
6 may be required to forfeit \$100 not less than \$1,000 nor more than \$10,000 for each  
7 violation.

8 SECTION 12. 100.52 (10) (b) of the statutes is repealed.

9 SECTION 13. 100.53 (4) of the statutes is created to read:

10 100.53 (4) ENFORCEMENT. (a) The department may use its authority in ss. 93.14  
11 and 93.15 to investigate violations of this section.

12 (b) The department may commence an action in circuit court in the name of the  
13 state to restrain by temporary or permanent injunction the violation of this section.

14 (c) The department, or, after consulting with the department, the department  
15 of justice or any district attorney may commence an action in the name of the state  
16 to recover a civil forfeiture to the state of not less than \$1,000 nor more than \$10,000  
17 for each violation of this section.

18 SECTION 14. 134.72 (title) and (1) to (3) of the statutes are renumbered 100.53  
19 (title) and (1) to (3).

20 SECTION 15. 134.72 (4) of the statutes is repealed.

21 SECTION 16. 134.95 (2) of the statutes is amended to read:

22 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a  
23 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.71,  
24 134.72, 134.73, or 134.87 or ch. 136 or a rule promulgated under these sections or that  
25 chapter, the person shall be subject to a supplemental forfeiture not to exceed

INS  
6-4

1 \$10,000 for that violation if the conduct by the defendant, for which the fine or  
2 forfeiture was imposed, was perpetrated against an elderly person or disabled person  
3 and if any of the factors under s. 100.264 (2) (a), (b), or (c) is present.

4 **SECTION 17.** 767.265 (2r) of the statutes is amended to read:

5 **767.265 (2r)** Upon entry of each order for child support, maintenance, family  
6 support, support by a spouse or the annual receiving and disbursing fee, and upon  
7 approval of each stipulation for child support, unless the court finds that income  
8 withholding is likely to cause the payer irreparable harm or unless s. 767.267  
9 applies, the court, circuit court commissioner or county child support agency under  
10 s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile  
11 machine, as defined in s. 134.72 (1) (a) 100.53 (1) (a), or other electronic means to the  
12 last-known address of the person from whom the payer receives or will receive  
13 money. The notice shall provide that the amount withheld may not exceed the  
14 maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the  
15 department or its designee, whichever is appropriate, does not receive the money  
16 from the person notified, the court, circuit court commissioner or county child  
17 support agency under s. 59.53 (5) shall provide notice of the assignment to any other  
18 person from whom the payer receives or will receive money. Notice under this  
19 subsection may be a notice of the court, a copy of the executed assignment or a copy  
20 of that part of the court order directing payment.

21 **SECTION 18.** 968.01 (1) of the statutes is amended to read:

22 968.01 (1) "Facsimile machine" has the meaning given in s. 134.72 ~~(1) (a)~~

23 100.53 (1) (a)  
100.53

100.55  
plain

24 **SECTION 19. Initial applicability.**

①

(1) The treatment of sections 100.53 (4) and 134.72 (4) of the statutes first  
applies to violations committed on the effective date of this subsection.

2

3

(END)

D-Note

**2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1339/lins  
CTS:.....

**Insert 6-4:**

767.75 (2r) NOTICE OF ASSIGNMENT TO INCOME SOURCE. Upon entry of each order for child support, maintenance, family support, support by a spouse, or the annual receiving and disbursing fee, and upon approval of each stipulation for child support, unless the court finds that income withholding is likely to cause the payer irreparable harm or unless s. 767.76 applies, the court or county child support agency under s. 59.53 (5) shall provide notice of the assignment by regular mail or by facsimile machine, as defined in s. 134.72 (1) (a), 100.55 (1) (a), or other electronic means to the last-known address of the person from whom the payer receives or will receive money. The notice shall provide that the amount withheld may not exceed the maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the department or its designee does not receive the money from the person notified, the court or county child support agency under s. 59.53 (5) shall provide notice of the assignment to any other person from whom the payer receives or will receive money. Notice under this subsection may be a notice of the court, a copy of the executed assignment, or a copy of that part of the court order directing payment.

History: 1971 c. 110; 1975 c. 94 s. 91 (3); 1975 c. 199; 1977 c. 105; 1979 c. 32 ss. 50, 92 (4); 1979 c. 196, 221; Stats. 1979 s. 767.265; 1981 c. 20, 186; 1983 a. 27, 384; 1985 a. 29; 1987 a. 38 s. 136; 1987 a. 332 s. 64; 1987 a. 398, 403; 1989 a. 31, 56, 212, 336; 1991 a. 287; 1993 a. 16, 326, 389, 481; 1995 a. 27 s. 9130 (4); 1995 a. 279, 404; 1997 a. 27, 191; 1999 a. 9; 2001 a. 16, 61, 105; 2005 a. 443 ss. 116 to 118, 237; Stats. 2005 s. 767.75.

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

LRB-1339/1dn

CTS:...

gf

Date

Senator Erpenbach:

This is a redraft of 2005 LRBs0127/1 as a bill for the 2007 session.

Christopher T. Sundberg  
Legislative Attorney  
Phone: (608) 266-9739  
E-mail:  
christopher.sundberg@legis.wisconsin.gov

Sections Affected Post-Drafting-Check For 05s0127/1

Monday, January 8, 2007 9:19 am

Current Wisconsin Statutes updated through 2005 Act 491

SECTION (Sub)(Par) BY	TREATMENT	AFFECTED
✓100.53	cr.	Act 0025
✓134.72(2)(b)	am. effec. 7-1-2006	Act 0061
✓134.72(2)(a)3.	cr. effec. 7-1-2006	Act 0061
✓134.72(2)(c)	cr. effec. 7-1-2006	Act 0061
767.265(1m) to 767.265(7m) Act 0443	rn. 767.75 (1m) to (7m) effec. 1-1-2007	

**DRAFTER'S NOTE  
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February 7, 2007

Senator Erpenbach:

This is a redraft of 2005 LRBs0127/1 as a bill for the 2007 session.

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