

## 2007 DRAFTING REQUEST

### Senate Substitute Amendment (SSA-SB99)

Received: 12/13/2007

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Daryl Hinz**

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: **daryl.hinz@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, plus SA1 and SA2

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#### Instructions:

See Attached

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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 12/14/2007	kfollett 12/18/2007		_____			
/1	csundber 01/29/2008	kfollett 01/29/2008	rschluet 12/18/2007	_____	sbasford 12/18/2007	sbasford 12/18/2007	
/2	csundber 01/29/2008	kfollett 01/29/2008	nmatzke 01/29/2008	_____	lparisi 01/29/2008	lparisi 01/29/2008	

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/3			rschluet	_____	sbasford	sbasford	
			01/29/2008	_____	01/29/2008	01/29/2008	

FE Sent For:

**<END>**

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/1	csundber 01/29/2008	kfollett 01/29/2008	rschluet 12/18/2007	_____	sbasford 12/18/2007	sbasford 12/18/2007	
/2		13 kif 1/29	nmatzke 01/29/2008	_____	lparisi 01/29/2008	lparisi 01/29/2008	

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/?	csundber 12/14/2007	kfollett 12/18/2007		_____			
/1		12kjf 1/29	rschluet 12/18/2007 nwn 1/29	_____	sbasford 12/18/2007	sbasford 12/18/2007	

FE Sent For:

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/?	csundber	11/5/07 12/1/07					
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FE Sent For:

<END>

12/13 Daryl Hinz/LFB

Prepare sub to SB 99:

- ✓ 1. Add SA1 and SA2
- ✓ 2. P. 3 L. 11: delete "semiannually," add "~~to~~  
quarterly ~~installments~~"
- ✓ 3. P. 4 L. 5: add "in quarterly instalments"
- ✓ 4. P. 5: delete sec. 10.
5. Amend 100.52 (2) (d): change "semiannually"  
to "quarterly instalments"
6. Search 100.52 for other occurrences of  
"semiannually".

SSA ,

TO 2007 SENATE BILL 99

March 20, 2007 - Introduced by Senators ERPENBACH, KREITLOW, HANSEN, BRESKE, LEHMAN, MILLER, PLALE, ROBSON, ROESSLER, DECKER, DARLING, COGGS, RISSER, LASSA, CARPENTER, TAYLOR, VINEHOUT, SULLIVAN and JAUCH, cosponsored by Representatives SHILLING, SMITH, NELSON, SOLETSKI, SEIDEL, GUNDERSON, HUBLER, KREUSER, TRAVIS, SHERMAN, FIELDS, RICHARDS, WOOD, BERCEAU, CULLEN, SHERIDAN, BALLWEG, TURNER, BLACK, MURTHA, MUSSER, BOYLE, PARISI, HEBL, GRIGSBY, POCAN, GARTHWAITE, STASKUNAS, STEINBRINK, JORGENSEN, HINTZ, TOLES, KRUSICK, GRONEMUS, YOUNG, ZEPNICK, VREWINK, WASSERMAN, BIES, ZIEGELBAUER, HILGENBERG, HIXSON, BENEDICT, VAN AKKEREN, SCHNEIDER, MOULTON, MASON, POPE-ROBERTS, MOLEPSKE, COLON, HRAYCHUCK, KESSLER, SINICKI and A. WILLIAMS. Referred to Committee on Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection.

Regen

1 AN ACT *to repeal* 100.52 (10) (b) and 134.72 (2) (a) 1. to 3., (b) and (c); *to*  
2 *renumber* 134.72 (title), 134.72 (1), 134.72 (2) (title), 134.72 (3) and 134.72 (4);  
3 *to renumber and amend* 100.52 (10) (a) and 134.72 (2) (a) (intro.); *to amend*  
4 100.52 (2) (a), 100.52 (2) (b), 100.52 (3) (a), 100.52 (4) (a) 2., 100.52 (4) (a) 3.,  
5 100.52 (4) (c), 100.52 (4) (c), 134.95 (2), 767.75 (2r) and 968.01 (1); and *to create*  
6 13.101 (18), 100.52 (1) (bm), 100.52 (3) (am), 100.52 (11) and 893.93 (5) of the  
7 statutes; **relating to:** prohibitions against certain telephone and facsimile  
8 solicitations, authorizing a private cause of action, 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 bill alters current law regarding telephone solicitations as follows:

1. Current law regulates telephone solicitations made to traditional "land line" customers. This bill expands the current provisions to include solicitations made to



**SENATE BILL 99**

persons who have cellular telephone service. As a result, under the bill, cellular telephone numbers may be included in the directory of customers who do not wish to receive telephone solicitations, and telephone solicitors may not make telephone solicitations to such cellular telephone numbers.

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

3. Under current law, a telephone solicitor may not make a telephone solicitation to a nonresidential customer if the customer has notified the solicitor by mail that the customer does not wish to receive telephone solicitations. Under the bill, a telephone solicitor is prohibited from making a telephone solicitation to a customer who has verbally informed the solicitor that the customer does not wish to receive telephone solicitations.

4. Under current law, the penalty for a violation of the restrictions on telephone solicitations is a forfeiture not to exceed \$100. The bill increases the penalty to a forfeiture of not less than \$1,000 nor more than \$10,000. The bill also permits a person who suffers damages as a result of a violation to bring an action for injunctive relief and for actual damages or \$500 per violation, whichever is greater.

5. Under current law, the registration fee DATCP charges telephone solicitors must be based on the cost of maintaining the nonsolicitation directory. Under the bill, 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 nonsolicitation directory by 15 percent or more.

Current law also prohibits facsimile solicitations without the consent of the recipient, except under certain conditions. Also, a facsimile solicitor must honor a recipient's written or facsimile request not to receive facsimile solicitations and may not disclose the recipient's facsimile number to another. Under current law, district attorneys are authorized to enforce these provisions through forfeiture actions. Under this bill, no facsimile solicitation may be sent without the recipient's consent. The bill transfers enforcement and administrative authority to DATCP.

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

*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) (bm) of the statutes is created to read:

INS  
2-3

SENATE BILL 99

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100.52 (1) (bm) "Customer" means an individual or small business in this state that is furnished with telecommunications service. In this paragraph, "small business" has the meaning given in s. 227.114 (1).

SECTION 3. 100.52 (2) (a) of the statutes is amended to read:

100.52 (2) (a) Upon a request by a residential customer, the department shall include in the nonsolicitation directory a listing indicating that the residential customer does not want to receive any telephone solicitation made on behalf of a telephone solicitor.

SECTION 4. 100.52 (2) (b) of the statutes is amended to read:

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

SECTION 5. 100.52 (3) (a) of the statutes is amended to read:

100.52 (3) (a) The department shall promulgate rules that require any telephone solicitor who requires an employee or contractor to make a telephone solicitation to a residential customer in this state to register with the department, obtain a registration number from the department, and pay a registration fee to the department in quarterly installments. The amount of the registration fee shall be

INS  
3-4

INS  
3-9

INS  
3-20

plain text

or small business customer

SENATE BILL 99

SECTION 5

in quarterly installments

1 based on the cost of establishing the nonsolicitation ~~directory~~ and the amount that  
 2 an individual telephone solicitor is required to pay shall be based on the number of  
 3 telephone lines used by the telephone solicitor to make telephone solicitations. The  
 4 rules shall also require a telephone solicitor that registers with the department to  
 5 pay an annual registration renewal fee to the department. The amount of the  
 6 registration renewal fee shall be based on the cost of maintaining the nonsolicitation  
 7 ~~directory~~ directories

and whether the telephone

SECTION 6. 100.52 (3) (am) of the statutes is created to read: solicitor solicits

residential customers;

9 100.52 (3) (am) Annually, no later than January 1, the department shall small  
 10 estimate the total expenditures from the appropriation under s. 20.115 (8) (jm) in business  
 11 that fiscal year and the unencumbered balance that will remain in the appropriation customers;  
 12 under s. 20.115 (8) (jm) at the end of that fiscal year. If the estimated unencumbered  
 13 balance exceeds 15 percent of the estimated expenditures from that appropriation  
 14 the department shall reduce or waive one or more quarterly installments under par. or both

INS  
4-17

15 (a). The department shall apply any reduction or waiver under this paragraph  
 16 proportionally to all telephone solicitors registered under par. (a).

SECTION 7. 100.52 (4) (a) 2. of the statutes is amended to read:

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

SECTION 8. 100.52 (4) (a) 3. of the statutes is amended to read:

22 100.52 (4) (a) 3. Make a telephone solicitation to a nonresidential customer  
 23 person if ~~the nonresidential customer person~~ has provided notice by mail or  
 24 previously stated to the telephone solicitor or an employee or contractor of the

within the 2-year period immediately preceding the telephone solicitation

SENATE BILL 99

1 telephone solicitor that the ~~nonresidential customer person~~ does not wish to receive  
2 telephone solicitations.

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

4 100.52 (4) (c) A telephone solicitor or employee or contractor of a telephone  
5 solicitor that makes a telephone solicitation to a nonresidential person that is not a  
6 customer shall, upon the request of the nonresidential customer person, provide the  
7 residential customer or small business mailing address for notifying the telephone solicitor that the nonresidential  
8 customer person does not wish to receive telephone solicitations.

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

10 100.52 (4) (c) A telephone solicitor or employee or contractor of a telephone  
11 solicitor that makes a telephone solicitation to a nonresidential person that is not a  
12 customer shall, upon the request of the nonresidential customer person, provide the  
13 mailing address for notifying the telephone solicitor that the nonresidential  
14 customer person does not wish to receive telephone solicitations.

15 SECTION 11. 100.52 (10) (a) of the statutes is renumbered 100.52 (10) and  
16 amended to read:

17 100.52 (10) ~~Except as provided in par. (b), a~~ A person who violates this section  
18 may be required to forfeit \$100 not less than \$1,000 nor more than \$10,000 for each  
19 violation.

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

21 SECTION 13. 100.52 (11) of the statutes is created to read:

22 100.52 (11) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the  
23 result of another person's violation of this section or any rule promulgated by the  
24 department under this section may bring an action against the violator for injunctive  
25 relief and to recover the amount of those damages or \$500 for each violation,

**SENATE BILL 99**

**SECTION 13**

1 whichever is greater. Notwithstanding s. 814.04 (1), in an action under this  
2 subsection, the court shall award a prevailing plaintiff reasonable attorney fees.

3 **SECTION 14.** 134.72 (title) of the statutes is renumbered 100.524 (title).

4 **SECTION 15.** 134.72 (1) of the statutes is renumbered 100.524 (1).

5 **SECTION 16.** 134.72 (2) (title) of the statutes is renumbered 100.524 (2) (title).

6 **SECTION 17.** 134.72 (2) (a) (intro.) of the statutes is renumbered 100.524 (2) and  
7 amended to read:

8 100.524 (2) A person may not make a facsimile solicitation without the consent  
9 of the person solicited unless all of the following apply:

10 **SECTION 18.** 134.72 (2) (a) 1. to 3., (b) and (c) of the statutes are repealed.

11 **SECTION 19.** 134.72 (3) of the statutes is renumbered 100.524 (3).

12 **SECTION 20.** 134.72 (4) of the statutes is renumbered 100.524 (4).

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

14 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a  
15 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.71,  
16 134.72, 134.73, or 134.87 or ch. 136 or a rule promulgated under these sections or that  
17 chapter, the person shall be subject to a supplemental forfeiture not to exceed  
18 \$10,000 for that violation if the conduct by the defendant, for which the fine or  
19 forfeiture was imposed, was perpetrated against an elderly person or disabled person  
20 and if any of the factors under s. 100.264 (2) (a), (b), or (c) is present.

21 **SECTION 22.** 767.75 (2r) of the statutes is amended to read:

22 767.75 (2r) NOTICE OF ASSIGNMENT TO INCOME SOURCE. Upon entry of each order  
23 for child support, maintenance, family support, support by a spouse, or the annual  
24 receiving and disbursing fee, and upon approval of each stipulation for child support,  
25 unless the court finds that income withholding is likely to cause the payer

100.524

SENATE BILL 99

1 irreparable harm or unless s. 767.76 applies, the court or county child support agency  
 2 under s. 59.53 (5) shall provide notice of the assignment by regular mail or by  
 3 facsimile machine, as defined in s. ~~134.72~~ 100.524 (1) (a), or other electronic means  
 4 to the last-known address of the person from whom the payer receives or will receive  
 5 money. The notice shall provide that the amount withheld may not exceed the  
 6 maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the  
 7 department or its designee does not receive the money from the person notified, the  
 8 court or county child support agency under s. 59.53 (5) shall provide notice of the  
 9 assignment to any other person from whom the payer receives or will receive money.  
 10 Notice under this subsection may be a notice of the court, a copy of the executed  
 11 assignment, or a copy of that part of the court order directing payment.

12 SECTION 23. 893.93 (5) of the statutes is created to read:

13 893.93 (5) An action under s. 100.52 shall be commenced within 3 years after  
 14 the cause of action accrues or be barred.

15 SECTION 24. 968.01 (1) of the statutes is amended to read:

16 968.01 (1) "Facsimile machine" has the meaning given in s. ~~134.72~~ 100.524 (1)  
 17 (a).

18 SECTION 25. Initial applicability.

19 (1) The treatment of section 100.52 (11) of the statutes, as created by this act,  
 20 first applies to violations committed on the effective date of this subsection.

21 (END)

*action \* NS: eff date*  
*text \* NS: eff date A*  
 SEC. 25. EFFECTIVE DATE. ¶  
 (1) This act takes effect on the first day of  
 the 12<sup>th</sup> month beginning after publication.

**SENATE AMENDMENT 1,  
TO 2007 SENATE BILL 99**

May 3, 2007 - Offered by COMMITTEE ON SMALL BUSINESS, EMERGENCY PREPAREDNESS, WORKFORCE DEVELOPMENT, TECHNICAL COLLEGES AND CONSUMER PROTECTION.

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

2 **1.** Page 2, line 4: delete the material beginning with that line and ending with  
3 page 3, line 3, and substitute: INS 2-3

4 ~~SECTION 2g.~~ <sup>2</sup> 100.52 (1) (f) of the statutes is amended to read:

5 100.52 (1) (f) "Residential customer" means an individual who is furnished  
6 with basic local exchange telecommunications service by a telecommunications  
7 utility, but does not include an individual who operates a business at his or her  
8 residence.

9 ~~SECTION 2i.~~ <sup>#</sup> 100.52 (1) (fm) of the statutes is created to read:

10 100.52 (1) (fm) "Small business customer" means a small business, as defined  
11 in s. 227.114 (1), that is furnished with telecommunications service. END INS 2-3

12 **2.** Page 3, line 5: delete lines 5 to 8 and substitute:

INS 3-4

1 100.52 (2) (a) Upon a request by a residential customer or small business  
2 customer, the department shall include in the appropriate nonsolicitation directory  
3 a listing indicating that the residential customer or small business customer does not  
4 want to receive any telephone solicitation made on behalf of a telephone solicitor.

END INS 3-4

5 ~~3. Page 3, line 10: delete lines 10 to 19 and substitute:~~

INS 3-9

6 100.52 (2) (b) The department shall promulgate rules for establishing,  
7 maintaining, and ~~semiannually~~ <sup>quarterly</sup> updating a directory that includes only listings of  
8 residential customers who do not wish to receive telephone solicitations made on  
9 behalf of telephone solicitors and a second, separate directory that includes only  
10 listings of small business customers who do not wish to receive telephone  
11 solicitations made on behalf of telephone solicitors. The rules promulgated under  
12 this paragraph shall establish requirements and procedures for a residential  
13 customer or small business customer to request a listing in the appropriate directory.  
14 The rules shall also require a residential customer or small business customer who  
15 requests a listing in the appropriate directory to notify the department on a biennial  
16 basis if the residential customer or small business customer wishes to continue to be  
17 included in the appropriate directory. The department shall eliminate a residential  
18 customer or small business customer from the appropriate directory if the customer  
19 does not make the biennial notification.

END INS 3-9

20 ~~4. Page 3, line 23: delete "residential customer" and substitute "residential~~  
21 ~~customer or small business customer".~~

22 ~~5. Page 4, line 1: delete "directory" and substitute "directory directories".~~

23 ~~6. Page 4, line 3: after "solicitations" insert "and whether the telephone~~  
24 ~~solicitor solicits residential customers, small business customers, or both".~~





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

LRBs0203/lins  
CTS:.....

**Insert 3-20:**

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

100.52 (2) (d) The department shall, on a semiannual quarterly basis, make the nonsolicitation directory available by electronic transmission only to telephone solicitors who are registered under sub. (3). Upon the request of a telephone solicitor registered under sub. (3), the department shall also provide a printed copy of the nonsolicitation directory to the telephone solicitor. A telephone solicitor who receives a copy of the directory, or to whom the directory is made available by electronic transmission, under this paragraph may not solicit or accept from any person, directly or indirectly, anything of value in exchange for providing the person with any information included in the copy.

**History:** 2001 a. 16 ss. 2435 to 2446f, 2819b, 2821b.

## Sundberg, Christopher

---

**From:** Hinz, Daryl  
**Sent:** Monday, January 28, 2008 3:07 PM  
**To:** Sundberg, Christopher; Hanaman, Cathlene  
**Cc:** Schutt, Eric; Laundrie, Julie  
**Subject:** SB 99 Sub slash 2

Chris and Cathlene,

Following are the changes to be drafted to SSA LRBs203/1 to SB 99 (this is on the Jt Finance agenda for 10 am Wednesday). The stripes are on Chris's desk.

- ✓ 1) Delete fax language (maintain current law).
- ✓ 2) Delete small business language (maintain current law - no new list for small biz).
- ✓ 3) Delete language relating to a separate private cause of actions (MCL).
- ✓ 4) Increase maximum forfeiture up to \$1,000 per violation (rather than \$10,000).

So, what's left should be: (a) expanding current no-call list to cell phones only; (b) modified forfeitures of at least \$100, but not more than \$1,000 per violation (section 12 modified); (c) the quarterly installment/publication language (various sections modified to delete small business references); (d) the 15% language (section 8); (e) the 2-year limit for notice by mail or statement (section 10 w/ nonresidential language left in?); and, (e) establish a 3 year statute of limitations for state civil prosecutions (section 24). The delayed effective date (12 months) would also remain.

Thanks,  
Daryl Hinz  
Legislative Fiscal Bureau  
608-266-3847

---

**From:** Laundrie, Julie  
**Sent:** Monday, January 28, 2008 11:47 AM  
**To:** Hinz, Daryl  
**Cc:** Schutt, Eric; Kuhn, Jamie  
**Subject:** business solicitations via fax and the verbal notice

Daryl,

To follow up with my conversation with Eric and loop back to you.

Leave the fax language out. There is a concern (by me when talking to Sklansky) that this change would be in conflict with 134.72 which regulates faxes currently for businesses. Would not want to mess with that.....

Thank you,

Julie

*Julie Laundrie*  
*Office of State Senator Jon Erpenbach*  
608-266-6670  
cell 608-772-0110

"People who are really good at politics are really good at getting people to be themselves," Karen Hanretty, Fred

## **Sundberg, Christopher**

---

**From:** Hinz, Daryl  
**Sent:** Monday, January 28, 2008 4:23 PM  
**To:** Schutt, Eric; Sundberg, Christopher; Hanaman, Cathlene  
**Cc:** Laundrie, Julie; Knutson, Tryg  
**Subject:** SB 99 Sub slash 2 (b)!

✓ Cathlene, forgot to mention in the last email, also delete section 1 - the Joint Finance transfer limitation. JFC does not currently have this authority so the provision seems unnecessary. Transfers in the past have been done through direct legislation, or by DOA & DATCP under general lapse requirements in budget legislation (not by JFC under s. 13.101).  
Daryl



LRBs0203/2  
CTS:kjf&lmk:rs  
stays  
RNNR

**SENATE SUBSTITUTE AMENDMENT ,  
TO 2007 SENATE BILL 99**

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1 **AN ACT to repeal** 100.52 (10) (b) and 134.72 (2) (a) 1. to 3., (b) and (c); **to**  
2 **renumber** 134.72 (title), 134.72 (1), 134.72 (2) (title), 134.72 (3) and 134.72 (4);  
3 **to renumber and amend** 100.52 (10) (a) and 134.72 (2) (a) (intro.); **to amend**  
4 100.52 (1) (f), 100.52 (2) (a), 100.52 (2) (b), 100.52 (2) (d), 100.52 (3) (a), 100.52  
5 (4) (a) 2., 100.52 (4) (a) 3., 100.52 (4) (c), 134.95 (2), 767.75 (2r) and 968.01 (1);  
6 and **to create** 13.101 (18), 100.52 (1) (fm), 100.52 (3) (am), 100.52 (11) and  
7 893.93 (5) of the statutes; **relating to:** prohibitions against certain telephone  
8 and facsimile solicitations, authorizing a private cause of action, and providing  
9 a penalty.

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

10 **SECTION 1.** 13.101 (18) of the statutes is created to read:  
11 13.101 (18) Notwithstanding sub. (4), the committee may not transfer funds  
12 from the appropriation under 20.115 (8) (jm).

1 SECTION 2. 100.52 (1) (f) of the statutes is amended to read:

2 100.52 (1) (f) "Residential customer" means an individual who is furnished  
3 with ~~basic local exchange~~ telecommunications service by a telecommunications  
4 utility, ~~but does not include an individual who operates a business at his or her~~  
5 residence. plain text

6 SECTION 3. 100.52 (1) (fm) of the statutes is created to read:

7 100.52 (1) (fm) "Small business customer" means a small business, as defined  
8 in s. 227.114 (1), that is furnished with telecommunications service.

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

10 100.52 (2) (a) Upon a request by a residential customer or small business  
11 customer, the department shall include in the appropriate nonsolicitation directory  
12 a listing indicating that the residential customer or small business customer does not  
13 want to receive any telephone solicitation made on behalf of a telephone solicitor.

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

15 100.52 (2) (b) The department shall promulgate rules for establishing,  
16 maintaining, and semiannually quarterly updating a directory that includes only  
17 listings of residential customers who do not wish to receive telephone solicitations  
18 made on behalf of telephone solicitors and a second, separate directory that includes  
19 only listings of small business customers who do not wish to receive telephone  
20 solicitations made on behalf of telephone solicitors. The rules promulgated under  
21 this paragraph shall establish requirements and procedures for a residential  
22 customer or small business customer to request a listing in the appropriate directory.  
23 The rules shall also require a residential customer or small business customer who  
24 requests a listing in the appropriate directory to notify the department on a biennial  
25 basis if the residential customer or small business customer wishes to continue to be

1 included in the appropriate directory. The department shall eliminate a residential  
2 customer or small business customer from the appropriate directory if the customer  
3 does not make the biennial notification.

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

5 100.52 (2) (d) The department shall, on a ~~semiannual~~ quarterly basis, make  
6 the nonsolicitation directory available by electronic transmission only to telephone  
7 solicitors who are registered under sub. (3). Upon the request of a telephone solicitor  
8 registered under sub. (3), the department shall also provide a printed copy of the  
9 nonsolicitation directory to the telephone solicitor. A telephone solicitor who receives  
10 a copy of the directory, or to whom the directory is made available by electronic  
11 transmission, under this paragraph may not solicit or accept from any person,  
12 directly or indirectly, anything of value in exchange for providing the person with any  
13 information included in the copy.

14 **SECTION 7.** 100.52 (3) (a) of the statutes is amended to read:

15 100.52 (3) (a) The department shall promulgate rules that require any  
16 telephone solicitor who requires an employee or contractor to make a telephone  
17 solicitation to a residential customer or small business customer in this state to  
18 register with the department, obtain a registration number from the department,  
19 and pay a registration fee to the department in quarterly installments. The amount  
20 of the registration fee shall be based on the cost of establishing the nonsolicitation  
21 directory directories, and the amount that an individual telephone solicitor is  
22 required to pay shall be based on the number of telephone lines used by the telephone  
23 solicitor to make telephone solicitations and whether the telephone solicitor solicits  
24 residential customers, small business customers, or both. The rules shall also  
25 require a telephone solicitor that registers with the department to pay an annual

1 registration renewal fee to the department in quarterly installments. The amount  
2 of the registration renewal fee shall be based on the cost of maintaining the  
3 nonsolicitation ~~director directories~~ <sup>directory</sup>

4 SECTION 8. 100.52 (3) (am) of the statutes is created to read:

5 100.52 (3) (am) Annually, no later than January 1, the department shall  
6 estimate the total expenditures from the appropriation under s. 20.115 (8) (jm) in  
7 that fiscal year and the unencumbered balance that will remain in the appropriation  
8 under s. 20.115 (8) (jm) at the end of that fiscal year. If the estimated unencumbered  
9 balance exceeds 15 percent of the estimated expenditures from that appropriation  
10 the department shall reduce or waive one or more quarterly installments under par.

11 (a). The department shall apply any reduction or waiver under this paragraph  
12 proportionally to all telephone solicitors registered under par. (a).

13 SECTION 9. 100.52 (4) (a) 2. of the statutes is amended to read:

14 100.52 (4) (a) 2. Make a telephone solicitation to a residential customer or small  
15 business customer if the a nonsolicitation directory that is provided or made  
16 available to the telephone solicitor under sub. (2) (d) includes a listing for the  
17 residential customer or small business customer.

18 SECTION 10. 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~~  
20 person if within the 2-year period immediately preceding the telephone solicitation  
21 the nonresidential customer person has provided notice by mail or previously stated  
22 to the telephone solicitor or an employee or contractor of the telephone solicitor that  
23 the nonresidential customer person does not wish to receive telephone solicitations.

24 SECTION 11. 100.52 (4) (c) of the statutes is amended to read:



1           100.52 (4) (c) A telephone solicitor or employee or contractor of a telephone  
2 solicitor that makes a telephone solicitation to a nonresidential person that is not a  
3 residential customer or small business customer shall, upon the request of the  
4 ~~nonresidential customer person~~, provide the mailing address for notifying the  
5 telephone solicitor that the ~~nonresidential customer person~~ does not wish to receive  
6 telephone solicitations.

7           **SECTION 12.** 100.52 (10) (a) of the statutes is renumbered 100.52 (10) and  
8 amended to read:

9           100.52 (10) ~~Except as provided in par. (b), a~~ A person who violates this section  
10 may be required to forfeit \$100 not less than \$1,000 nor more than \$10,000 for each  
11 violation. *more*

12           **SECTION 13.** 100.52 (10) (b) of the statutes is repealed.

13           **SECTION 14.** 100.52 (11) of the statutes is created to read:

14           100.52 (11) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the  
15 result of another person's violation of this section or any rule promulgated by the  
16 department under this section may bring an action against the violator for injunctive  
17 relief and to recover the amount of those damages or \$500 for each violation,  
18 whichever is greater. Notwithstanding s. 814.04 (1), in an action under this  
19 subsection, the court shall award a prevailing plaintiff reasonable attorney fees.

20           **SECTION 15.** 134.72 (title) of the statutes is renumbered 100.524 (title).

21           **SECTION 16.** 134.72 (1) of the statutes is renumbered 100.524 (1).

22           **SECTION 17.** 134.72 (2) (title) of the statutes is renumbered 100.524 (2) (title).

23           **SECTION 18.** 134.72 (2) (a) (intro.) of the statutes is renumbered 100.524 (2) and  
24 amended to read:

1 100.524 (2) A person may not make a facsimile solicitation without the consent  
2 of the person solicited unless all of the following apply:

3 SECTION 19. 134.72 (2) (a) 1. to 3., (b) and (c) of the statutes are repealed.

4 SECTION 20. 134.72 (3) of the statutes is renumbered 100.524 (3).

5 SECTION 21. 134.72 (4) of the statutes is renumbered 100.524 (4).

6 SECTION 22. 134.95 (2) of the statutes is amended to read:

7 134.95 (2) SUPPLEMENTAL FORFEITURE. If a fine or a forfeiture is imposed on a  
8 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 100.524,  
9 134.71, ~~134.72~~, 134.73, or 134.87 or ch. 136 or a rule promulgated under these  
10 sections or that chapter, the person shall be subject to a supplemental forfeiture not  
11 to exceed \$10,000 for that violation if the conduct by the defendant, for which the fine  
12 or forfeiture was imposed, was perpetrated against an elderly person or disabled  
13 person and if any of the factors under s. 100.264 (2) (a), (b), or (c) is present.

14 SECTION 23. 767.75 (2r) of the statutes is amended to read:

15 767.75 (2r) NOTICE OF ASSIGNMENT TO INCOME SOURCE. Upon entry of each order  
16 for child support, maintenance, family support, support by a spouse, or the annual  
17 receiving and disbursing fee, and upon approval of each stipulation for child support,  
18 unless the court finds that income withholding is likely to cause the payer  
19 irreparable harm or unless s. 767.76 applies, the court or county child support agency  
20 under s. 59.53 (5) shall provide notice of the assignment by regular mail or by  
21 facsimile machine, as defined in s. ~~134.72~~ 100.524 (1) (a), or other electronic means  
22 to the last-known address of the person from whom the payer receives or will receive  
23 money. The notice shall provide that the amount withheld may not exceed the  
24 maximum amount that is subject to garnishment under 15 USC 1673 (b) (2). If the  
25 department or its designee does not receive the money from the person notified, the

1 court or county child support agency under s. 59.53 (5) shall provide notice of the  
2 assignment to any other person from whom the payer receives or will receive money.  
3 Notice under this subsection may be a notice of the court, a copy of the executed  
4 assignment, or a copy of that part of the court order directing payment.

5 **SECTION 24.** 893.93 (5) of the statutes is created to read:

6 893.93 (5) An action under s. 100.52 shall be commenced within 3 years after  
7 the cause of action accrues or be barred.

8 **SECTION 25.** 968.01 (1) of the statutes is amended to read:

9 968.01 (1) "Facsimile machine" has the meaning given in s. ~~134.72~~ 100.524 (1)

10 (a).

11 **SECTION 26. Initial applicability.**

12 (1) The treatment of section 100.52 (11) of the statutes, as created by this act,  
13 first applies to violations committed on the effective date of this subsection.

14 **SECTION 27. Effective date.**

15 (1) This act takes effect on the first day of the 12th month beginning after  
16 publication.

17 (END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

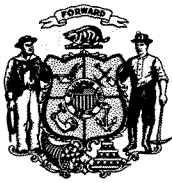
LRB

1/21/08

D. Hinz / LRB

Redraft LRB 0203/2: Change penalty  
to at least \$100 but not more than  
\$1,000.





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2 *amend* 100.52 (1) (f), 100.52 (2) (b), 100.52 (2) (d), 100.52 (3) (a), 100.52 (4) (a)  
3 3. and 100.52 (4) (c); and *to create* 100.52 (3) (am) and 893.93 (5) of the statutes;  
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6 in the directory. The rules shall also require a residential customer who requests a  
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8 customer wishes to continue to be included in the directory. The department shall  
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