

➤ Hearing Records ... HR (bills and resolutions)

** **07hr_sb0099_SC-SBEPWDTCCP_pt01**

WISCONSIN STATE
LEGISLATURE COMMITTEE
HEARING RECORDS

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

Committee on
Small Business,
Emergency
Preparedness,
Workforce
Development,
Technical Colleges &
Consumer Protection

(SC-SBEPWDTCCP)

COMMITTEE NOTICES ...

➤ Committee Reports ... CR

**

➤ Executive Sessions ... ES

**

➤ Public Hearings ... PH

**

➤ Record of Comm. Proceedings ... RCP

**

**INFORMATION COLLECTED BY
COMMITTEE FOR AND AGAINST
PROPOSAL ...**

➤ Appointments ... Appt

**

Name:

➤ Clearinghouse Rules ... CRule

**

➤ Hearing Records ... HR (bills and resolutions)

**

(companion bill: _____)

➤ Miscellaneous ... Misc

**

()

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: _____

Moved by: Carpenter

Seconded by: Plale

AB _____

SB 99

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

SB
99

Be recommended for:

- Passage
 Adoption
 Confirmation
 Concurrence
 Indefinite Postponement
 Introduction
 Rejection
 Tabling
 Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>3</u>	<u>2</u>	_____	_____

Passage
 as
 Amended
 as Amended

Motion Carried
 Motion Failed

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: Carpenter

Seconded by: Plale

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt LRBa 0449/1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	_____	_____	_____

Motion Carried Motion Failed

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: Roessler

Seconded by: Plale

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt LRB 043711

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	_____	_____	_____

Motion Carried

Motion Failed

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: _____ Seconded by: _____

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt 0451/1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____

unanimous consent

Motion Carried

Motion Failed

Vote Record
Committee on Small Business, Emergency Preparedness,
Workforce Development, Technical Colleges and Consumer
Protection

Date: 5-2-07

Moved by: Kedzie Seconded by: Roessler

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt LRB 0451/1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>2</u>	<u>3</u>	_____	_____

Motion Carried

Motion Failed

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: _____ Seconded by: _____

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt LR 576 (952) 1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: _____ _____ _____ _____

Unanimous consent

Motion Carried

Motion Failed

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: Kedzie

Seconded by: Roessler

AB _____ SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt LEB 0452/1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>2</u>	<u>3</u>	_____	_____

Motion Carried

Motion Failed





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

April 25, 2007

The Honorable Robert Wirch, Chair
Committee on Small Business, Emergency Preparedness,
Workforce Development, Technical Colleges and Consumer Protection

Re: SB 99 relating to prohibitions against certain telephone and facsimile solicitations.

Dear Senator Wirch:

Thank you for the opportunity to provide testimony on SB 99. The Department of Agriculture, Trade & Consumer Protection supports the legislation.

This legislation accomplishes four objectives that we believe are desired by the majority of Wisconsin consumers. First, it enables persons who have cell phones to add their numbers to the no-call list. Cell phones have become increasingly popular since the no-call list was first adopted in 2001. Indeed, many individuals, particularly younger ones, have abandoned landlines altogether and only have a cell phone. While we are not aware that telemarketing via cell phones is currently as prevalent as telemarketing was on landlines prior to the enactment of the law, we believe that it is only a matter of time before cell phones telemarketing will become widespread.

Telemarketing to cell phone users want to enjoy the same freedom from telemarketing calls as landline users. And, since many cell phone plans charge for incoming calls, cell phone users can be viewed as even more in need of protection of calls than landline users. The federal government permits cell phone users to place their numbers on the federal do-not-call list and we think that adding cell phones to Wisconsin's list is both a necessary and logical extension of the 2001 law.

Second, SB 99 permits small businesses to add their phone numbers to Wisconsin's no call list. Since the enactment of the original no-call law, we've heard from a sizeable number of small businesses that telemarketing to their offices and retail/commercial establishments interferes with productivity and as a result, costs them time and money. Many small businesses have single phone numbers with extensions for various departments or employees. Telemarketing calls to the main number tie up both the phone line and the receptionist and lead to missed calls from customers, suppliers, and others that have an actual business need to contact the particular office or business. Enabling these businesses to add their phone numbers to the no-call list will permit small

Agriculture generates \$51.5 billion for Wisconsin

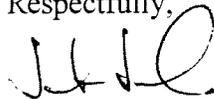
businesses and employees to keep their focus on doing business, not on answering telemarketing calls.

Third, the proposed legislation increases the maximum forfeiture from \$100 to a range of \$1,000 to \$10,000 per violation of the no-call law. Telemarketing is big business and telemarketers spend hundreds of thousands of dollars on telemarketing campaigns because the return, in terms of sales made, is great. The current penalty of \$100 per violation does little to deter unscrupulous telemarketers from violating the no-call law because the cost of violating the law, assuming one gets caught, is significantly less than the profits to be made. In essence, the \$100 forfeiture simply becomes a cost of doing business. Since the whole purpose of the law is to prevent telemarketing to individuals who don't want to be telemarketed, the law's penalty should be high enough to deter the prohibited conduct.

Finally, the proposed legislation provides enforcement teeth to the law's current prohibition against sending unsolicited faxes. That prohibition is set forth in Sec. 134.72, Stats. Under present law, a person may not send an unsolicited facsimile that encourages the recipient to purchase property, goods or services unless the solicitation is no more than one page in length and the sender and recipient had a previous business relationship. If Sec. 134.72 is violated, only District Attorneys can prosecute and the maximum penalty is a \$500 forfeiture. District Attorneys are reluctant to prosecute violations because they have many other, higher priority cases. The proposed legislation transfers investigative and enforcement authority to DATCP and also increases the forfeiture to a range of \$1,000 to \$10,000 which serves the same deterrent purpose as the increase in penalty for no-call violations.

Again, thank you for allowing us to voice our support for SB 99.

Respectfully,



Janet Jenkins

Administrator

Division of Trade & Consumer Protection





JON ERPENBACH

S T A T E S E N A T O R

April 30, 2007

Sen. Robert Wirth
Committee on Small Business, Emergency Preparedness, Workforce Development,
Technical Colleges and Consumer Protection
317 East, State Capitol
Madison, WI 53701

Dear Sen. Wirth,

I am introducing an amendment to Senate Bill 99, which I believe improves our legislation designed to increase consumer protection through expansion of the state's enormously-popular "Do Not Call" list.

This amendment addresses some concern about designation between residential customers and small business customers and is designed to assist compliance with the law changes in the legislation.

Currently, there is one registry of numbers put onto the "Do Not Call" list. Our amendment divides the directory into two categories, residential and business. This will make it easier for businesses to distinguish between residential and business number on the "Do Not Call" list and reduce costs for businesses seeking to comply with the expansion of the list.

Secondly, the amendment makes a uniform period of two years for all customers who sign up for inclusion on the list.

Finally, in order to assist the Department of Agriculture, Trade and Consumer Protection as well as the state's businesses, the amendment sets an effective date of one year after publication.

If you have any additional questions, please do not hesitate to contact me and I ask for the committee to adopt this amendment.

Sincerely,

JON ERPENBACH
State Senator
27th District

JE/sr





Wisconsin Manufacturers' Association • 1911
Wisconsin Council of Safety • 1923
Wisconsin State Chamber of Commerce • 1929

James S. Haney
President

James A. Buchen
Vice President
Government Relations

James R. Morgan
Vice President
Education and Programs

Michael R. Shoys
Vice President
WMC Service Corp.

TO: Members of the State Senate Committee on Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection

FROM: James A. Buchen, Vice President, Government Relations

DATE: May 2, 2007

RE: Opposition to Provisions of Senate Bill 99

Background

WMC is opposed to those provisions of SB 99 that affect business-to-business communications. Senate Bill 99 expands various provisions of Wisconsin's current regulation of telemarketing practices, and also amends current law regulating facsimile communications. Several of these changes appear contrary to established business practices. Provisions of the bill that may be problematic include:

1. Allowing verbal notice from a customer to a telemarketer that the customer does not want to receive solicitations;
2. Allowing certain small businesses to be included in the state's no call directory rather than informing a telemarketer directly that they do not wish to be contacted;
3. Prohibiting sending facsimile solicitations, regardless of the existence of a past or present business relationship, without the consent of the recipient;
4. Increasing forfeitures for violations of the law from no more than \$100 to not less than \$1,000 nor more than \$10,000;
5. Creating a private cause of action for both injunctive relief and actual damages of a minimum of \$500 per violation.

Analysis

Taken together these amendments to the regulation of telemarketing and facsimile communications will impose a significant risk of liability for businesses engaged in legitimate business practices in Wisconsin. For example:

1. Verbal notice is by definition intangible and may place a business in the position of proving that it did NOT receive verbal notice. This is an impossible burden to meet. The current system that requires written notice to solicitors, particularly from non-residential customers, reflects normal business to business commercial practices.
2. Current law permits sending unsolicited facsimile communications where the parties have had a prior business relationship, unless there has been a request from the recipient that a facsimile communication not be sent. Again, the current law reflects standard business practice. This legislation would prohibit those generally accepted business

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practices, even where an established business relationship exists, unless there is consent from the recipient.

3. The significant increase in penalties, as well as the creation of a private cause of action, will create significant liabilities for Wisconsin businesses, in conjunction with the proposed amendments that are contrary to well accepted business practices.

Action Requested

For these reasons, Wisconsin Manufacturers and Commerce is opposed to those provisions of this legislation that increase penalties, permit verbal notice of a non-solicitation request, and prohibit facsimile communications under a broad range of circumstances. We respectfully request that these elements be removed from the bill.