



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 246**

December 14, 2009 – Offered by Representative SPANBAUER.

1 **AN ACT** *to amend* 20.115 (8) (jm), 100.52 (title), 100.52 (2) (c) and 100.52 (2) (d);
2 and *to create* 100.52 (6m) of the statutes; **relating to:** prohibiting certain
3 telephone calls using electronically prerecorded messages, granting
4 rule-making authority, and making an appropriation.

Analysis by the Legislative Reference Bureau

Current law regulates “telephone solicitation,” which is 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 nonsolicitation directory maintained by the Department of Agriculture, Trade and Consumer Protection (DATCP) listing residential customers who do not wish to receive telephone solicitations. Current law also prohibits a telephone solicitor from using an electronically prerecorded message in a telephone solicitation made to any recipient without the recipient’s consent. Nonprofit organizations are not subject to current law regulating telephone solicitations.

This substitute amendment prohibits any person from using an electronically prerecorded message in an unsolicited telephone call to a residential customer whose telephone number is included in the nonsolicitation directory, subject to the following

exceptions: 1) a call initiated by a school or school district to a student, parent of a student, or an employee; 2) a call initiated to a residential customer by a person who has a current business or personal relationship with the customer; 3) a call initiated by a governmental unit that is intended to alert a recipient of the call to a danger to the recipient's health or safety; 4) a call initiated by a college or university to a graduate of the college or university; and 5) a call initiated by a debt collector for the purpose of collecting a debt.

Under the substitute amendment, the department must promulgate rules requiring any person who uses, or requires an employee or contractor to use, an electronically prerecorded message in a telephone call to a residential customer in this state, other than a call covered by one of the exceptions in the substitute amendment, to register with and pay a fee to the department. A registration is valid for one year and may be renewed upon payment of a renewal fee to the department. Under the substitute amendment, registration and renewal fees for persons who use electronically prerecorded messages must equal the fees charged for a telephone solicitor under current law, except that the fees for nonprofit organizations may not exceed one-tenth of the fee charged for a telephone solicitor.

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

1 **SECTION 1.** 20.115 (8) (jm) of the statutes, as affected by 2009 Wisconsin Act 28,
2 is amended to read:

3 20.115 (8) (jm) *Telephone solicitation regulation.* All moneys received from
4 telephone solicitor registration and registration renewal fees paid under the rules
5 promulgated under s. 100.52 (3) (a) and from registration and renewal fees paid
6 under the rules promulgated under s. 100.52 (6m) (c) not appropriated under sub. (1)
7 (im) for establishing and maintaining the nonsolicitation directory under s. 100.52
8 (2).

9 **SECTION 2.** 100.52 (title) of the statutes is amended to read:

10 **100.52 (title) Telephone solicitations and electronically prerecorded**
11 **messages.**

12 **SECTION 3.** 100.52 (2) (c) of the statutes is amended to read:

1 100.52 (2) (c) Except for copies of the nonsolicitation directory that are provided
2 to registered telephone solicitors under par. (d) and to persons registered under sub.
3 (6m) (c), the nonsolicitation directory is not subject to inspection, copying, or receipt
4 under s. 19.35 (1) and may not be released by the department.

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

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

16 **SECTION 5.** 100.52 (6m) of the statutes is created to read:

17 100.52 (6m) ELECTRONICALLY PRERECORDED MESSAGES. (a) A person other than
18 a telephone solicitor or an employee or contractor of a telephone solicitor may not use
19 an electronically prerecorded message in an unsolicited telephone call to a
20 residential customer if the nonsolicitation directory includes a listing for the
21 residential customer.

22 (b) Paragraph (a) does not apply to any of the following:

23 1. A call initiated by a school, including a postsecondary school, or school
24 district to a student, parent of a student, or an employee.

1 2. A call initiated to a residential customer by a person who has a current
2 business or personal relationship with the customer.

3 3. A call initiated by a governmental unit that is intended to alert a recipient
4 of the call to a danger to the recipient's health or safety.

5 4. A call initiated by a college or university to a graduate of the college or
6 university.

7 5. A call initiated by a debt collector for the purpose of collecting a debt.

8 (c) The department shall promulgate rules that require any person who uses,
9 or requires an employee or contractor to use, an electronically prerecorded message
10 in a telephone call to a residential customer in this state, other than the telephone
11 calls specified in par. (b) 1. to 5., to register with the department and pay a
12 registration fee to the department. The rules shall provide that a registration under
13 this paragraph is valid for one year and may be renewed upon payment of a renewal
14 fee to the department. The department shall establish registration and renewal fees
15 under this paragraph equal to fees applicable to telephone solicitors under sub. (3)
16 (a), except that the registration and renewal fees for nonprofit organizations may not
17 exceed one-tenth of the fees applicable to telephone solicitors under sub. (3) (a).

18

(END)