

**2009 DRAFTING REQUEST**

**Bill**

Received: **02/16/2009**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Nelson (608) 266-2418**

By/Representing: **Ben Nerad**

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: **Rep.Nelson@legis.wisconsin.gov**

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

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Prohibit offers in the form of bogus checks

---

**Instructions:**

Redraft 2007 LRB-1136/3

---

**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 02/16/2009	kfollett 02/25/2009		_____			State
/1	csundber 03/11/2009	kfollett 03/12/2009	jfrantze 02/25/2009	_____	cduerst 02/25/2009	cduerst 02/25/2009	State
/2	csundber 03/26/2009	kfollett 03/27/2009	jfrantze 03/12/2009	_____	lparisi 03/12/2009	lparisi 03/12/2009	State
/3			mduchek	_____	sbasford	sbasford	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			03/27/2009 _____		03/27/2009	03/27/2009	

FE Sent For:

*at intro  
5/8/09*

<END>

## 2009 DRAFTING REQUEST

### Bill

Received: **02/16/2009**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Nelson (608) 266-2418**

By/Representing: **Ben Nerad**

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: **Rep.Nelson@legis.wisconsin.gov**

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

---

### Pre Topic:

No specific pre topic given

---

### Topic:

Prohibit offers in the form of bogus checks

---

### Instructions:

Redraft 2007 LRB-1136/3

---

### 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 02/16/2009	kfollett 02/25/2009		_____			State
/1	csundber 03/11/2009	kfollett 03/12/2009	jfrantze 02/25/2009	_____	cduerst 02/25/2009	cduerst 02/25/2009	State
/2	csundber 03/26/2009	kfollett 03/27/2009	jfrantze 03/12/2009	_____	lparisi 03/12/2009	lparisi 03/12/2009	State
/3			mduchek	_____	sbasford		

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

03/27/2009 \_\_\_\_\_ 03/27/2009

FE Sent For:

<END>

### 2009 DRAFTING REQUEST

#### Bill

Received: **02/16/2009**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Nelson (608) 266-2418**

By/Representing: **Ben Nerad**

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: **Rep.Nelson@legis.wisconsin.gov**

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

#### Pre Topic:

No specific pre topic given

#### Topic:

Prohibit offers in the form of bogus checks

#### Instructions:

Redraft 2007 LRB-1136/3

#### 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 02/16/2009	kfollett 02/25/2009		_____			State
/1	csundber 03/11/2009	kfollett 03/12/2009	jfrantze 02/25/2009	_____	cduerst 02/25/2009	cduerst 02/25/2009	State
/2		13/16/09 3/2/09	jfrantze 03/12/2009	_____	lparisi 03/12/2009	lparisi 03/12/2009	

*MD*  
*3/27*

FE Sent For:

**<END>**

2009 DRAFTING REQUEST

Bill

Received: 02/16/2009

Received By: csundber

Wanted: As time permits

Identical to LRB:

For: Thomas Nelson (608) 266-2418

By/Representing: Ben Nerad

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: Rep.Nelson@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Prohibit offers in the form of bogus checks

Instructions:

Redraft 2007 LRB-1136/3

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 02/16/2009	kfollett 02/25/2009		_____			State
/1		12 kf 3/12	jfrantze 02/25/2009	_____	cduerst 02/25/2009	cduerst 02/25/2009	
FE Sent For:			Jo 3/12	Jo km 3/12			<END>

2009 DRAFTING REQUEST

Bill

Received: 02/16/2009

Received By: csundber

Wanted: As time permits

Identical to LRB:

For: Thomas Nelson (608) 266-2418

By/Representing: Ben Nerad

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: Rep.Nelson@legis.wisconsin.gov

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

Pre Topic:

No specific pre topic given

Topic:

Prohibit offers in the form of bogus checks

Instructions:

Redraft 2007 LRB-1136/3

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 02/16/2009	kfollett 02/25/2009		_____			State
/1			jfrantze 02/25/2009	_____	cduerst 02/25/2009		

FE Sent For:

<END>



**2009 DRAFTING REQUEST**

**Bill**

Received: 02/16/2009

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Thomas Nelson (608) 266-2418**

By/Representing: **Ben Nerad**

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: **Rep.Nelson@legis.wisconsin.gov**

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

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Prohibit offers in the form of bogus checks

---

**Instructions:**

Redraft 2007 LRB-1136/3

---

**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/kjf 2/25	Jb 2/25	Jb 2/25			

FE Sent For:

<END>

ln: 2/10/09

Today

9  
**2007 ASSEMBLY BILL 416**

June 14, 2007 - Introduced by Representatives POCAN, GOTTLIEB, ALBERS, BALLWEG, BERCEAU, BLACK, BOYLE, CULLEN, FRISKE, GRIGSBY, GUNDERSON, HAHN, HEBL, JESKEWITZ, MOLEPSKE, MURSAU, MUSSER, NASS, A OTT, PARISI, SEIDEL, SHERIDAN, SINICKI, SOLETSKI, STRACHOTA, TOWNSEND, TURNER, VAN AKKEREN, VRUWINK, A. WILLIAMS, M. WILLIAMS and JORGENSEN, cosponsored by Senators LEHMAN, OLSEN, CARPENTER, COWLES, DARLING, ERPENBACH, HANSEN, KREITLOW, LASSA, MILLER, PLALE, RISSER, ROESSLER and SCHULTZ. Referred to Committee on Financial Institutions.

Regen

1 AN ACT to create 100.315 of the statutes; relating to: soliciting purchases of  
2 goods or services using unsolicited checks or money orders and providing a  
3 penalty.

**Analysis by the Legislative Reference Bureau**

This bill prohibits soliciting the purchase of goods or services by the delivery to a recipient in this state of a document that is or appears to be a check or money order payable to the recipient, if the endorsement of the document purports to bind the recipient to purchasing goods or services and the recipient did not request the delivery of the document. Under the bill, the Department of Agriculture, Trade and Consumer Protection may bring an action against a violator for a forfeiture of \$100 per solicitation, except that the forfeiture may not exceed \$10,000 for each seven-day period in which the person commits a violation.

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:**

4 SECTION 1. 100.315 of the statutes is created to read:  
5 **100.315 Solicitation of contract using check or money order.** (1) In this  
6 section, "check" has the meaning given in s. 217.02 (2). AK

**ASSEMBLY BILL 416****SECTION 1**

1           (2) No person may solicit the purchase of goods or services by delivering to a  
2 recipient in this state a document that is or appears to be a check payable to the  
3 recipient, if the endorsement of the document purports to bind the recipient to  
4 purchasing goods or services and the recipient did not request the delivery of the  
5 document.

6           (3) The department shall investigate violations of this section and may bring  
7 an action against a person who violates this section to recover a forfeiture of not more  
8 than \$100 for each solicitation sent in violation of this section, except that the  
9 forfeiture may not exceed \$10,000 for each 7-day period in which the person violates  
10 this section.

11

(END)

**Duerst, Christina**

---

**From:** Nerad, Ben  
**Sent:** Wednesday, February 25, 2009 12:40 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2140/1 Topic: Prohibit offers in the form of bogus checks

**RUSH**

Please Jacket LRB 09-2140/1 for the ASSEMBLY.

*including exemplary damages*

**Chapter 100 / 100.175 / 100.175(7) / 100.175(7)(c)**

100.175(7)(c)

(c) Any **person** injured by a breach of a contract for dating services may **bring** a civil **action** to recover damages together with costs and disbursements, including reasonable attorney fees, and such other equitable relief as may be determined by the court.

**Chapter 100 / 100.177 / 100.177(15) / 100.177(15)(b)**

100.177(15)(b)

(b) In addition to the remedies otherwise provided by law, any **person** injured by a violation of this section may **bring** a civil **action** for damages under s. 100.20 (5). Any **person** injured by a breach of a contract for center services may **bring** a civil **action** to recover damages together with costs and disbursements, including reasonable attorney fees, and such other equitable relief as may be determined by the court.

**Chapter 100 / 100.205 / 100.205(9) / 100.205(9)(b)**

100.205(9)(b)

(b) Any **person** injured by a breach of a contract for rustproofing may **bring** an **action** against the warrantor or its insurer or both to recover damages, costs and disbursements, including reasonable attorney fees, and other relief determined by the court.

**Chapter 100 / 100.206 / 100.206(6)**

100.206(6)

(6) **Civil remedy.** Any **person** damaged as a result of a violation of this section may **bring** a civil **action** to recover damages, court costs and, notwithstanding s. 814.04 (1), reasonable attorney fees. The **person** may also request in the **action** any other legal or equitable relief.

**Chapter 100 / 100.30 / 100.30(5m)**

100.30(5m)

(5m) **Private cause of action.** Any **person** who is injured or threatened with injury as a result of a sale or purchase of motor vehicle fuel in violation of sub. (3) may **bring** an **action** against the **person** who violated sub. (3) for temporary or permanent injunctive relief or an **action** against the **person** for 3 times the amount of any monetary loss sustained or an amount equal to \$2,000, whichever is greater, multiplied by each day of continued violation, together with costs, including accounting fees and reasonable attorney fees, notwithstanding s. 814.04 (1). An **action** under this subsection may not be brought after 180 days after the date of a violation of sub. (3).

**Chapter 100 / 100.55 / 100.55(4) / 100.55(4)(c)**

100.55(4)(c)

(c) In addition to any other remedies, any **person** aggrieved by a violation of sub. (2) or (3) may **bring** a civil **action** for damages. In such an **action**, any **person** who violates sub. (2) or (3) shall be liable for twice the amount of actual damages caused by the violation or \$500, whichever is greater, and, notwithstanding s. 814.04 (1), the costs of the **action**, including reasonable attorney fees. In such an **action**, the court may also award any equitable relief that the court determines is appropriate.

## Sundberg, Christopher

---

**From:** Jenkins, Janet A - DATCP [Janet.Jenkins@Wisconsin.gov]  
**Sent:** Tuesday, March 10, 2009 3:06 PM  
**To:** Sundberg, Christopher  
**Cc:** Nerad, Ben; Moll, Keeley A - DATCP  
**Subject:** RE: bogus checks private action

Hi, Chris - I have talked to Ben and I left a voice mail for Robin. My suggestion is to use the same language as used in sec. 100.57(6)(a). This is the most common type of "private right". The minimum dollar amount is a policy issue for Rep. Nelson, but \$200 is a fairly common number.

ok per Ben 3/11/09

If you need anything else, give me a call. Thanks.

-Janet

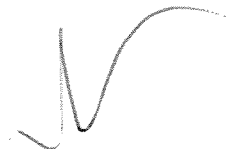
---

**From:** Sundberg, Christopher [mailto:Christopher.Sundberg@legis.wisconsin.gov]  
**Sent:** Tuesday, March 10, 2009 2:59 PM  
**To:** Jenkins, Janet A - DATCP  
**Subject:** bogus checks private action

I've been asked by Ben in Rep. Nelson's office to add a private action for damages to a bill prohibiting bogus checks that, when endorsed, purport to bind the endorser to purchase goods or services. Ben said you'd be able to give further instructions about the particulars. Last week, while I was on vacation, my colleague Robin Kite tried to get in touch with you, but was unsuccessful.

Can you provide some specifics? I guess the main things would be whether to include some kind of statutory minimum damages and whether to allow a prevailing plaintiff to recover actual attorney's fees.

CS





## 2009 BILL

Regen

If The bill creates a private right of action for damages suffered as a result of a violation of the prohibition created by the bill, and provides for a minimum recovery of \$200 for a prevailing plaintiff, plus attorney fees.

1 AN ACT to create 100.315 of the statutes; relating to: soliciting purchases of  
2 goods or services using unsolicited checks or money orders and providing a  
3 penalty.

### *Analysis by the Legislative Reference Bureau*

This bill prohibits soliciting the purchase of goods or services by the delivery to a recipient in this state of a document that is or appears to be a check or money order payable to the recipient, if the endorsement of the document purports to bind the recipient to purchasing goods or services and the recipient did not request the delivery of the document. Under the bill, the Department of Agriculture, Trade and Consumer Protection may bring an action against a violator for a forfeiture of \$100 per solicitation, except that the forfeiture may not exceed \$10,000 for each seven-day period in which the person commits a violation.

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:*

4 SECTION 1. 100.315 of the statutes is created to read:  
5 100.315 Solicitation of contract using check or money order. (1) In this  
6 section, "check" has the meaning given in s. 217.02 (2).

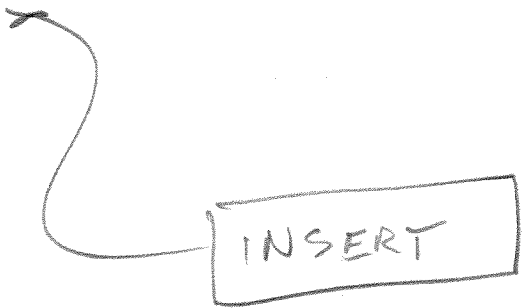
**BILL**

1           (2) No person may solicit the purchase of goods or services by delivering to a  
2 recipient in this state a document that is or appears to be a check payable to the  
3 recipient, if the endorsement of the document purports to bind the recipient to  
4 purchasing goods or services and the recipient did not request the delivery of the  
5 document.

6           (3) The department shall investigate violations of this section and may bring  
7 an action against a person who violates this section to recover a forfeiture of not more  
8 than \$100 for each solicitation sent in violation of this section, except that the  
9 forfeiture may not exceed \$10,000 for each 7-day period in which the person violates  
10 this section.

11

(END)



INSERT



from s: 100.57  
(6) (a) (4) (b)

INSERT

(6)

(a) Any person suffering pecuniary loss because of a violation of this section may commence an action to recover the pecuniary loss. If the person prevails, the person shall recover twice the amount of the pecuniary loss, or \$200 for each violation, whichever is greater, together with costs, including reasonable attorney fees, notwithstanding s. 814.04 (1).

*against the violator*

(b) The department may commence an action in the name of the state to restrain by temporary or permanent injunction a violation of this section. Before entry of final judgment, the court may make any necessary orders to restore to a person any pecuniary loss suffered by the person because of the violation.

(c) The department or a district attorney may commence an action in the name of the state to recover a forfeiture to the state of not less than \$100 nor more than \$10,000 for each violation of this section.

**NOTE: This section was created as s. 100.55 by 2007 Wis. Act 176 and renumbered by the legislative reference bureau under s. 13.92 (1) (bm) 2.**

**History:** 2007 a. 176; s. 13.92 (1) (bm) 2.

3/20/09 Ben/Nelson

Redraft w/o private right of action.



## 2009 BILL

Regen

1 AN ACT *to create* 100.315 of the statutes; **relating to:** soliciting purchases of  
2 goods or services using unsolicited checks or money orders and providing a  
3 penalty.

---

### *Analysis by the Legislative Reference Bureau*

This bill prohibits soliciting the purchase of goods or services by the delivery to a recipient in this state of a document that is or appears to be a check or money order payable to the recipient, if the endorsement of the document purports to bind the recipient to purchasing goods or services and the recipient did not request the delivery of the document. Under the bill, the Department of Agriculture, Trade and Consumer Protection may bring an action against a violator for a forfeiture of \$100 per solicitation, except that the forfeiture may not exceed \$10,000 for each seven-day period in which the person commits a violation.

→ The bill creates a private right of action for damages suffered as a result of a violation of the prohibition created by the bill, and provides for a minimum recovery of \$200 for a prevailing plaintiff, plus attorney fees.

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:*

**BILL**

1           **SECTION 1.** 100.315 of the statutes is created to read:

2           **100.315 Solicitation of contract using check or money order.** (1) In this  
3 section, "check" has the meaning given in s. 217.02 (2).

4           (2) No person may solicit the purchase of goods or services by delivering to a  
5 recipient in this state a document that is or appears to be a check payable to the  
6 recipient, if the endorsement of the document purports to bind the recipient to  
7 purchasing goods or services and the recipient did not request the delivery of the  
8 document.

9           (3) The department shall investigate violations of this section and may bring  
10 an action against a person who violates this section to recover a forfeiture of not more  
11 than \$100 for each solicitation sent in violation of this section, except that the  
12 forfeiture may not exceed \$10,000 for each 7-day period in which the person violates  
13 this section.

14           (4) Any person suffering pecuniary loss because of a violation of this section  
15 may commence an action against the violator to recover the pecuniary loss. If the  
16 person prevails, the person shall recover twice the amount of the pecuniary loss, or  
17 \$200 for each violation, whichever is greater, together with costs, including  
18 reasonable attorney fees, notwithstanding s. 814.04 (1).

19

(END)