



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2009 Assembly Bill 246

**Assembly Substitute
Amendment 2**

Memo published: January 25, 2010

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CURRENT LAW

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. [s. 100.52, Stats.]

ASSEMBLY SUBSTITUTE AMENDMENT 2

Assembly Substitute Amendment 2, relating to prohibiting certain telephone calls using electronically prerecorded messages, granting rule-making authority, and making an appropriation, does the following:

1. Creates, in s. 100.52, Stats., a new statutory provision specifying that ***a person*** other than a telephone solicitor or an employee or contractor of a telephone solicitor (who are regulated by other provisions in current law) ***may not use an electronically prerecorded message*** in an unsolicited telephone call to a residential customer ***if*** the nonsolicitation directory, noted under current law above, includes a listing for the residential customer.
2. Specifies that this new provision in item 1., above, ***does not apply*** to any of the following:
 - A call by a school or school district to a student, parent of a student, or an employee.

- A call to a residential customer initiated by a person who has a current business or personal relationship with the customer.
 - A call by a governmental unit that relates to a danger to health or safety.
 - A call by an organization to a member of the organization.
3. Requires DATCP to *promulgate rules* that require any person who uses, or requires an employee or contractor to use, an electronically prerecorded message 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 the telephone calls specified in item 2., above, to register with DATCP and pay a registration fee to the department. The rules must provide that a registration under this new provision is valid for one year and may be renewed upon payment of a renewal fee to DATCP.
 4. Requires DATCP to establish the registration and renewal fees *equal to* fees applicable to telephone solicitors under current law, except that the registration and renewal fees for nonprofit organizations may not exceed 1/10th of the fees applicable to telephone solicitors. As with the current telephone solicitor registration and registration renewal fees paid by telephone solicitors, all of these new fees are to be used to establish and maintain the current nonsolicitation directory under s. 100.52 (2), Stats.

Legislative History

At an executive session on January 12, 2010, the Assembly Committee on Consumer Protection voted to adopt Assembly Substitute Amendment 2 on a vote of Ayes, 8; Noes, 1, and voted to recommend passage of the bill, as amended, on a vote of Ayes, 7; Noes, 2.

DLS:ksm