



2013 SENATE BILL 9

February 6, 2013 – Introduced by Senators ERPENBACH, RISSER, T. CULLEN and TAYLOR, cosponsored by Representatives RINGHAND, HEBL, SINICKI and POPE. Referred to Committee on Government Operations, Public Works, and Telecommunications.

1 **AN ACT to repeal** 100.52 (4) (a) 1.; and **to create** 100.522 of the statutes; **relating**
2 **to:** regulating use of telephone automatic dialing–announcing devices and
3 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits certain telephone solicitors and their employees and contractors from using an electronically prerecorded message in a telephone solicitation without the consent of the recipient of the telephone call. The prohibition applies to messages that encourage the recipient to purchase property, goods, or services. The prohibition does not apply to nonprofit organizations, which are excluded from the definition of “telephone solicitor.”

This bill repeals the foregoing prohibition and instead prohibits any caller from using an automatic dialing–announcing device to disseminate a prerecorded or synthesized voice message unless an exception applies. The bill defines “automatic dialing–announcing device” as a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates such a message. The bill defines “caller” as any person who uses a telephone or telephone line to contact or attempt to contact a telephone service subscriber or any person living or residing with such a subscriber. Unlike current law, the bill is not limited to telephone solicitors. Also unlike current law, nonprofit organizations are subject to the prohibition. In addition, the bill applies to any type of message, and, unlike current law, is not limited to messages encouraging the purchase of property, goods, or services. In addition, the bill applies to any interstate or intrastate message that is received by a person in this state.

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The bill includes exceptions that allow a caller to use an automatic dialing–announcing device under specified circumstances. First, a caller may use such a device to contact or attempt to contact a telephone service subscriber who has knowingly and voluntarily requested, consented to, permitted, or authorized receipt of the message disseminated by the device. Another exception allows a caller to use such a device if the disseminated message is immediately preceded by a live operator who obtains the telephone service subscriber’s consent before the message is delivered. Also, the prohibition does not apply to messages from public school boards, governing bodies of certain private schools, or charter school operators to their students, parents, or employees. The prohibition also does not apply to messages advising employees of work schedules.

Under current law, the Department of Agriculture, Trade and Consumer Protection (DATCP) enforces certain requirements regarding telephone solicitors. The bill requires DATCP to also investigate violations of the bill and bring enforcement actions for violations. The bill also creates a civil forfeiture of no more than \$100 for each violation of the bill, which is the same amount as the civil forfeiture under current law for violating the telephone solicitor requirements.

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.** 100.52 (4) (a) 1. of the statutes is repealed.

2 **SECTION 2.** 100.522 of the statutes is created to read:

3 **100.522 Automatic dialing–announcing devices. (1) DEFINITIONS.** In this
4 section:

5 (a) “Automatic dialing–announcing device” means a device that does all of the
6 following:

7 1. Selects and dials telephone numbers.

8 2. Working alone or in conjunction with other equipment, disseminates a
9 prerecorded or synthesized voice message to the telephone number called.

10 (b) “Caller” means any person that attempts to contact or contacts a subscriber
11 in this state by using a telephone or telephone line.

12 (c) “Subscriber” means any of the following:

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1 1. A person who has subscribed to telephone service from a telephone company.

2 2. Any other person living or residing with a person described in subd. 1.

3 **(2) PROHIBITION; EXCEPTIONS.** (a) Except as provided in par. (b), a caller may not
4 use or connect to a telephone line an automatic dialing–announcing device unless
5 any of the following apply:

6 1. The subscriber has knowingly and voluntarily requested, consented to,
7 permitted, or authorized receipt of the message.

8 2. The message is immediately preceded by a live operator who obtains the
9 subscriber’s consent before the message is delivered.

10 (b) This subsection does not apply to any of the following:

11 1. Messages to students, parents, or employees from a school board, as defined
12 in s. 115.001 (7), the governing body of a private school, as defined in s. 115.001 (3r),
13 or the operator of a charter school under s. 118.40.

14 2. Messages advising employees of work schedules.

15 **(3) TERRITORIAL APPLICATION.** This section applies to any interstate or intrastate
16 message received by a person in this state.

17 **(4) ENFORCEMENT.** The department shall investigate violations of this section
18 and may bring an action for temporary or permanent injunctive or other relief for any
19 violation of this section.

20 **(5) PENALTY.** A caller who violates this section may be required to forfeit not
21 more than \$100 for each violation.

22 **SECTION 3. Effective date.**

23 (1) This act takes effect on the first day of the 4th month beginning after
24 publication.

25

(END)