



2013 SENATE BILL 97

March 22, 2013 – Introduced by Senators HARSDORF, LEIBHAM, CARPENTER, COWLES, T. CULLEN, LEHMAN, OLSEN, RISSER and SCHULTZ, cosponsored by Representatives JACQUE, NERISON, HINTZ, BERNARD SCHABER, BERNIER, BIES, ENDSLEY, KESTELL, KOLSTE, KOOYENGA, MARKLEIN, MURPHY, MURSAU, MURTHA, OHNSTAD, PETRYK, POPE, RINGHAND, SARGENT and VRUWINK. Referred to Energy, Consumer Protection, and Government Reform.

1 **AN ACT** *to amend* 20.115 (8) (jm), 100.52 (title), 100.52 (2) (b), 100.52 (2) (c) and
2 100.52 (2) (d); and *to create* 100.52 (6m) of the statutes; **relating to:**
3 prohibiting certain telephone calls using electronically prerecorded messages,
4 rules for requesting a listing in the nonsolicitation directory, granting
5 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 or text message 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 bill 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, a parent of a student, or an

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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 bill, DATCP 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 bill, to register with and pay a fee to DATCP. A registration is valid for one year and may be renewed upon payment of a renewal fee to DATCP. Under the bill, 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.

Current law requires DATCP to promulgate rules establishing requirements and procedures for a residential customer to request a listing in the nonsolicitation directory. The rules must require a residential customer who requests a listing in the directory to biennially notify DATCP if the residential customer wishes to continue to be included in the directory. If a residential customer fails to make the biennial notification, DATCP must eliminate the residential customer from the nonsolicitation directory.

Under the bill, DATCP must promulgate rules establishing requirements and procedures for a residential customer to request a listing in the nonsolicitation directory, but the rules may not require a residential customer to periodically renew his or her request as a condition of continuing to include the listing in the nonsolicitation directory.

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.** 20.115 (8) (jm) of the statutes is amended to read:
2 20.115 (8) (jm) *Telephone solicitation regulation.* All moneys received from
3 telephone solicitor registration and registration renewal fees paid under the rules
4 promulgated under s. 100.52 (3) (a) and from registration and renewal fees paid
5 under the rules promulgated under s. 100.52 (6m) (c) not appropriated under sub. (1)

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1 (im) for establishing and maintaining the nonsolicitation directory under s. 100.52
2 (2).

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

4 **100.52 (title) Telephone solicitations and electronically prerecorded**
5 **messages.**

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

7 100.52 (2) (b) The department shall promulgate rules for establishing,
8 maintaining, and semiannually updating a directory that includes listings of
9 residential customers who do not wish to receive telephone solicitations made on
10 behalf of telephone solicitors. The rules promulgated under this paragraph shall
11 establish requirements and procedures for a residential customer to request a listing
12 in the directory. ~~The rules shall also require a residential customer who requests a~~
13 ~~listing in the directory to notify the department on a biennial basis if the residential~~
14 ~~customer wishes to continue to be included in the directory. The department shall~~
15 ~~eliminate a residential customer from the directory if the customer does not make~~
16 ~~the biennial notification, but may not require a residential customer to periodically~~
17 ~~renew his or her request as a condition of continuing to include the listing in the~~
18 directory.

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

20 100.52 (2) (c) Except for copies of the nonsolicitation directory that are provided
21 to registered telephone solicitors under par. (d) and to persons registered under sub.
22 (6m) (c), the nonsolicitation directory is not subject to inspection, copying, or receipt
23 under s. 19.35 (1) and may not be released by the department.

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

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1 100.52 (2) (d) The department shall, on a semiannual basis, make the
2 nonsolicitation directory available by electronic transmission only to telephone
3 solicitors who are registered under sub. (3) and to persons registered under sub. (6m)
4 (c). Upon the request of a telephone solicitor registered under sub. (3), the
5 department shall also provide a printed copy of the nonsolicitation directory to the
6 telephone solicitor. A telephone solicitor who receives a copy of the directory, or to
7 whom the directory is made available by electronic transmission, under this
8 paragraph or a person who receives a copy of the directory under sub. (6m) (c) may
9 not solicit or accept from any person, directly or indirectly, anything of value in
10 exchange for providing the person with any information included in the copy.

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

12 100.52 (6m) ELECTRONICALLY PRERECORDED MESSAGES. (a) A person other than
13 a telephone solicitor or an employee or contractor of a telephone solicitor may not use
14 an electronically prerecorded message in an unsolicited telephone call to a
15 residential customer if the nonsolicitation directory includes a listing for the
16 residential customer.

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

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

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

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

24 4. A call initiated by a college or university to a graduate of the college or
25 university.

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

12

(END)