

## 2013 DRAFTING REQUEST

### Senate Amendment (SA-SB97)

Received: 5/14/2013 Received By: mkunkel  
Wanted: As time permits Same as LRB: a0497  
For: Sheila Harsdorf (608) 266-7745 By/Representing: Brittany Lewin  
May Contact: Drafter: mkunkel  
Subject: Trade Regulation - other Addl. Drafters:  
Extra Copies: MPG

Submit via email: YES  
Requester's email: Sen.Harsdorf@legis.wisconsin.gov  
Carbon copy (CC) to:

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#### Pre Topic:

No specific pre topic given

---

#### Topic:

Federal do-not-call list; exceptions to "robocall" prohibition

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#### Instructions:

See attached

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#### 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>
/?	mkunkel 5/14/2013			_____			
/P1	mkunkel 5/22/2013	jdyer 5/16/2013	jmurphy 5/16/2013	_____	lparisi 5/16/2013		
/1		jdyer 5/22/2013	rschluet 5/22/2013	_____	srose 5/22/2013	mbarman 5/23/2013	

FE Sent For:

**<END>**

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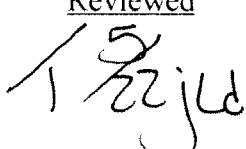
Topic:

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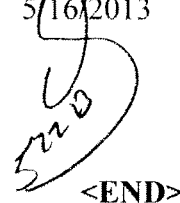
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/?	mkunkel	15/16 jld	jm 5/16	AMERS 5/16			

FE Sent For:

<END>

## Kunkel, Mark

---

**From:** Lewin, Brittany  
**Sent:** Monday, May 13, 2013 11:46 AM  
**To:** Kunkel, Mark  
**Cc:** Julian, Jamie  
**Subject:** SB 97  
**Attachments:** Harsdorf Memo2.doc

Hi Mark:

Below are the changes we'd like to make to SB 97.

Please draft a narrow exception for an in-state non-profit organization that conducts non-partisan voter reminder calls. See the attached memo for more background. Our objective is to only meet the needs of this Disability Rights WI program. In addition, please make the changes necessary to adopt the use of the federal no call list, which would eliminate the need for Wisconsin to maintain a separate state list, and a provision to clarify that tele-townhalls that eventually connect with a live operator are allowed.

Gratefully,

**Brittany Lewin**  
Office of Sen. Sheila Harsdorf  
800.862.1092 or 608.266.7745  
[www.HarsdorfSenate.com](http://www.HarsdorfSenate.com)

To: Brittney Lewin, Office of Sen. Sheila Harsdorf  
From: Alicia Boehme, Disability Rights Wisconsin  
Date: April 24, 2013  
Re: Information about the Wisconsin Disability Vote Coalition.

---

The Wisconsin Disability Vote Coalition (WDVC), founded in 2004, is a non-partisan effort to increase participation in our democratic form of government among people with disabilities and members of Wisconsin's disability community. The WDVC is funded by Disability Rights Wisconsin and the Board for People with Developmental Disabilities, both of which are non-profit agencies. The lines of funding allocated towards this project are mostly federal funds through the Developmental Disabilities Act and the Help America Vote Act of 2002.

The WDVC's goal is to reach out to the disability community with information and education about the electoral process in order to increase involvement in our democracy. The WDVC helps educate consumers, families, guardians and providers about eligibility requirements and changes in voting laws as well as working on polling place accessibility (i.e. physical barriers to voting).

One tool we utilize is informational, automated reminder calls which we disseminate to members of the Wisconsin disability community close to election dates. We identify our project as originating the call and include a toll-free hotline number in the call so that people can contact the WDVC with questions or to be removed from the list. Over the decade we have been making the calls, a very small number of people (fewer than 25) have requested they be removed.

The call list we use is one we have created and maintained over the 10 years of our project. It consists of members of the disability community and has been compiled with cooperation from disability organizations who have provided their mailing lists in accordance with all applicable laws; through individuals providing their contact information at disability-related training events around the state; and from publicly available directories of community based residential facilities and adult family homes. Our list is currently around 17,000 records.

We are hopeful that the amendments to SB97/AB96 will allow us to be one of the exemptions as identified in the bill.

If there you have additional questions, please let me know. I can be reached at 608/267-0214 or [aliciab@drwi.org](mailto:aliciab@drwi.org).



## Kunkel, Mark

---

**From:** Kunkel, Mark  
**Sent:** Wednesday, May 15, 2013 11:29 AM  
**To:** Lewin, Brittany  
**Cc:** Julian, Jamie  
**Subject:** RE: SB 97

I will prepare a preliminary draft that accomplishes what you want. You should receive it soon. After you review it, I can finalize it for introduction. As for your questions below, see my responses in bold and italics.

--Mark

---

**From:** Lewin, Brittany  
**Sent:** Wednesday, May 15, 2013 10:05 AM  
**To:** Kunkel, Mark  
**Cc:** Julian, Jamie  
**Subject:** RE: SB 97

Hi Mark:

As a follow-up to our phone conversation, teleforum is an alternate term for what we discussed. Apparently, tele-townhall is a copyrighted term.

***"Teleforum" doesn't have a generally understood meaning, so I will refer to teleconference with an elected official. If that doesn't work for you, we can talk about it and I can revise the preliminary draft after you review it.***

Also, just to clarify and confirm, adopting the federal no call list will still allow WI to enforce restrictions based on WI law pertaining to calls, robocalls and text messages, correct? ***Correct.*** In other words, we can use the federal no call list and enforce stricter state law? ***Yes, that is the intent. Although one federal court has held that the federal law preempts state law on telemarketing issues, other federal courts have held that federal law does not preempt state law. Compare Patriotic Veterans, Inc. v. Indiana ex rel. Zoeller, 821 F. Supp.2d 1074 (S.D. Ind. 2011) with Van Bergen v. Minnesota, 59 F.3d 1541 (8th Cir. 1995) and Palmer v. Sprint Nextel Corp., 674 F. Supp.2d 1224 (W.D. Wash. 2009).***

Please let me know if you need any additional information.

Gratefully,

**Brittany Lewin**  
Office of Sen. Sheila Harsdorf  
800.862.1092 or 608.266.7745  
[www.HarsdorfSenate.com](http://www.HarsdorfSenate.com)

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**Sent:** Tuesday, May 14, 2013 11:28 AM  
**To:** Lewin, Brittany  
**Cc:** Julian, Jamie  
**Subject:** RE: SB 97

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certain people, such as public officials, or elected officials, or someone else, and/or do you want to limit the exception to those held for specified purposes? Or should it broadly apply to any teleconference?

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Hi Mark:

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Please draft a narrow exception for an in-state non-profit organization that conducts non-partisan voter reminder calls. See the attached memo for more background. Our objective is to only meet the needs of this Disability Rights WI program. In addition, please make the changes necessary to adopt the use of the federal no call list, which would eliminate the need for Wisconsin to maintain a separate state list, and a provision to clarify that tele-townhalls that eventually connect with a live operator are allowed.

Gratefully,

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RMR

JLD  
↓  
SAC

O-NOTE

SOON

IN  
5-14

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE AMENDMENT,**  
**TO SENATE BILL 97**

1 At the locations indicated, amend the bill as follows: ✓

2 1. Page 1, line 4: delete "rules for requesting a listing in the nonsolicitation  
3 directory" and substitute "prohibiting certain telephone solicitations". ✓

4 2. Page 2, line 1: before that line insert: ✓

5 INSERT  
1 SEE INSERT 1

6 3. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1r". ✓

7 4. Page 2, line 4: delete "(a)" and substitute "(a)". ✓

8 5. Page 3, line 1: delete lines 1 and 2 ✓ and substitute

9 NO  
4 INSERT  
2 SEE INSERT 2

NO  
4

10 6. Page 3, line 6: delete the material beginning with that line and ending with  
11 page 4, line 10, and substitute:

INSERT 3

**SEE INSERT 3**

1

2           **7.** Page 4, line 15: delete "nonsolicitation directory" and substitute "state  
3 do-not-call registry". ✓

4           **8.** Page 5, line 1: after that line insert:

5           "6. A call initiated by an in-state nonprofit organization to provide information  
6 in a nonpartisan manner about voting or election times or schedules. ✓

7           7. A call providing the recipient with the opportunity to connect to a live  
8 operator and participate in a <sup>check Δ</sup>teleconference with an elected official." ✓

9           **9.** Page 5, line 5: delete "5." and substitute "7." ✓

10          <sup>Fix Component</sup> **10.** Page 5, line 10: delete "(a)" and substitute "(a)".

11          **11.** Page 5, line 11: delete "(a)" and substitute "(a)".

12          **12.** Page 5, line 11: after that line insert: ✓

**SEE INSERT 4**

INSERT 4

14

(END)

d-note  
↓

**SENATE BILL 155**

has complied with federal law in obtaining copies or updated versions of the state do-not-call registry. The proof must be provided upon initial registration and annual renewal, as well as any other time upon DATCP's request. Finally, the bill prohibits a telephone solicitor from using or possessing a copy or updated version of the state do-not-call registry that the telephone solicitor has obtained in violation of federal law.

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:*

INSEAT 1

1

SECTION 1. 20.115 (1) (im) of the statutes is amended to read:

2

20.115 (1) (im) *Consumer protection; telephone solicitor fees.* The amounts in the schedule from telephone solicitor registration and registration renewal fees paid under the rules promulgated under s. 100.52 (3) (a), for consumer protection and consumer information and education.

5

END OF INSEAT 1

6

SECTION 2. 20.115 (8) (jm) of the statutes is amended to read:

7

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

10

11

END OF INSEAT 2

INSEAT 2

12

SECTION 3. 100.52 (1) (c) of the statutes is created to read:

13

100.52 (1) (c) "National do-not-call registry" means the national database established by the federal trade commission under 47 USC 227 (c) (3) that consists of telephone numbers of residential customers who object to receiving telephone solicitations.

17

SECTION 4. 100.52 (1) (e) of the statutes is repealed.

18

SECTION 5. 100.52 (1) (fm) of the statutes is created to read:



SENATE BILL 155

INSEAT 3 (cont'd)

1 100.52 (1) (fm) "State do-not-call registry" means the portion of the national  
2 do-not-call registry that consists of telephone numbers with Wisconsin area codes.

3 SECTION 4e ← ③ 100.52 (1m) of the statutes is created to read:

4 100.52 (1m) NATIONAL DO-NOT-CALL REGISTRY. The department may cooperate  
5 with the federal trade commission to add telephone numbers included in the  
6 nonsolicitation directory, as defined in s. 100.52 (1) (e), 2011 stats., to the national  
7 do-not-call registry.

8 SECTION 4m ← ③ 100.52 (2) of the statutes is repealed.

9 SECTION 4s ← ③ 100.52 (3) (a) of the statutes is renumbered 100.52 (3) and amended  
10 to read:

11 100.52 (3) REGISTRATION OF TELEPHONE SOLICITORS. The department shall  
12 promulgate rules that require any telephone solicitor who requires an employee or  
13 contractor to make a telephone solicitation to a residential customer in this state to  
14 register with the department, obtain a registration number from the department,  
15 and pay ~~a~~ an initial registration fee and an annual registration renewal fee to the  
16 department. ~~The amount of the registration fee shall be based on the cost of~~  
17 ~~establishing the nonsolicitation directory, and the amount that an individual~~  
18 ~~telephone solicitor is required to pay shall be based on the number of telephone lines~~  
19 ~~used by the telephone solicitor to make telephone solicitations~~ or some other  
20 methodology established by the department by rule. The rules shall also require a  
21 telephone solicitor that registers with the department to ~~pay an annual registration~~  
22 ~~renewal fee to the department, at the time of initial registration, the time of annual~~  
23 ~~renewal, and any other time upon request of the department, provide the department~~  
24 with proof that the telephone solicitor has complied with federal law in obtaining  
25 copies and updated versions of the state do-not-call registry. The amount of the



SENATE BILL 155

INSEAT 3 (cont'd):

1 registration renewal fee fees shall be based on the cost of maintaining the  
2 nonsolicitation directory amount required to administer and enforce this section and  
3 to provide the amounts appropriated under s. 20.115 (1) (im). ✓

4 SECTION 5d ← (B) 100.52 (3) (b) of the statutes is renumbered 100.52 (4) (d).

5 SECTION 5h ← (B) 100.52 (4) (a) 2. of the statutes is amended to read:

6 100.52 (4) (a) 2. Make a telephone solicitation to a residential customer if the  
7 nonsolicitation directory that is provided or made available to the telephone solicitor  
8 under sub. (2) (d) includes a listing for the residential customer telephone number  
9 that, at the time the solicitation is made, is listed on the state do-not-call registry.

10 SECTION 5p ← (B) 100.52 (4) (b) 1. of the statutes is amended to read:

11 100.52 (4) (b) 1. Require an employee or contractor to make a telephone  
12 solicitation to a person in this state unless the telephone solicitor is registered with  
13 the department under the rules promulgated under sub. (3) (a).

14 SECTION 5t ← (B) 100.52 (4) (b) 3. of the statutes is created to read:

15 100.52 (4) (b) 3. Use or possess a copy or updated version of the state  
16 do-not-call registry that the telephone solicitor has obtained in violation of federal  
17 law. 22 A END OF INSEAT 3

INSEAT 4

18 SECTION 7c ← (B) 100.52 (8) of the statutes is created to read:

19 100.52 (8) RULES. The department may promulgate rules to administer and  
20 enforce this section.

21 SECTION 7g ← (B) 100.52 (9) (title) of the statutes is repealed and recreated to read:

22 100.52 (9) (title) DEPARTMENT DUTIES.

23 SECTION 7l ← (B) 100.52 (9) of the statutes is renumbered 100.52 (9) (b).

24 SECTION 7p ← (B) 100.52 (9) (a) of the statutes is created to read:



SENATE BILL 155


INSERT 4 (cont'd)

1 100.52 (9) (a) The department shall publicize the procedures for a residential  
2 customer to add a telephone number to the national do-not-call registry.

3 SECTION ~~14~~ <sup>7E ← (B)</sup> 100.55 (3) (b) 3. of the statutes is amended to read:

4 100.55 (3) (b) 3. Knowingly or negligently utilizing information regarding  
5 consumers who have made an election under 15 USC 1681b (e) to be excluded from  
6 prescreened consumer reports, or who have registered their telephone numbers on  
7 the national do-not-call registry as provided in 47 CFR 64.1200, ~~or who are listed~~  
8 ~~in the nonsolicitation directory under s. 100.52 (2).~~

9 SECTION ~~15~~ <sup>7X ← (B)</sup> Effective date.

10 (1) This act takes effect on the first day of the 4th month beginning after  
11 publication. <sup>77</sup> 

END OF INSERT 4  
~~END~~

12



DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa0484/P1dn

MDK:.....

date

Jld

Sen. Harsdorf:

Please note the following about this preliminary draft

amendment  
plain colon

1. The requirements for using the state's portion of the federal do-not-call registry are identical to those in 2013 SB=155, which includes a delayed effective date of approximately 3 months. I included the same same delayed effective date in this amendment. Is that okay?

2. Please review the language I created for the 2 new exceptions to the automated call prohibition. If you have any comments or revisions, please contact me.

three

two

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: mark.kunkel@legis.wisconsin.gov

\*  
\*  
\*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa0484/P1dn  
MDK:jld:jm

May 16, 2013

Sen. Harsdorf:

Please note the following about this preliminary amendment:

1. The requirements for using the state's portion of the federal do-not-call registry are identical to those in 2013 SB-155, which includes a delayed effective date of approximately three months. I included the same delayed effective date in this amendment. Is that okay?
2. Please review the language I created for the two new exceptions to the automated call prohibition. If you have any comments or revisions, please contact me.

Mark D. Kunkel  
Senior Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [mark.kunkel@legis.wisconsin.gov](mailto:mark.kunkel@legis.wisconsin.gov)

## Kunkel, Mark

---

**From:** Lewin, Brittany  
**Sent:** Tuesday, May 21, 2013 5:20 PM  
**To:** Kunkel, Mark  
**Subject:** RE: SB 97

20484

Looks good. Please send the jacketed copy request.

---

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has  
been  
para

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SENATE AMENDMENT,  
TO SENATE BILL 97

Today

No changes  
\*changes\*

- 1 At the locations indicated, amend the bill as follows: ✓
- 2 1. Page 1, line 4: delete “rules for requesting a listing in the nonsolicitation
- 3 directory” and substitute “prohibiting certain telephone solicitations”.
- 4 2. Page 2, line 1: before that line insert:
- 5 “SECTION 1g. 20.115 (1) (im) of the statutes is amended to read:
- 6 20.115 (1) (im) *Consumer protection; telephone solicitor fees.* The amounts in
- 7 the schedule from telephone solicitor registration and registration renewal fees paid
- 8 under the rules promulgated under s. 100.52 (3) (a), for consumer protection and
- 9 consumer information and education.”.
- 10 3. Page 2, line 1: delete “SECTION 1” and substitute “SECTION 1r”.
- 11 4. Page 2, line 4: delete “(a)” and substitute “(a)”.

1 **5.** Page 3, line 1: delete lines 1 and 2 and substitute <sup>g</sup>“(im) for ~~establishing and~~  
 2 ~~maintaining the nonsolicitation directory under~~ administering and enforcing s.  
 3 100.52 (2).” ✓

4 **6.** Page 3, line 6: delete the material beginning with that line and ending with  
 5 page 4, line 10 and substitute:

6 **“SECTION 3e.** ✓ 100.52 (1) (c) of the statutes is created to read:  
 7 100.52 (1) (c) “National do-not-call registry” means the national database  
 8 established by the federal trade commission under 47 USC 227 (c) (3) that consists  
 9 of telephone numbers of residential customers who object to receiving telephone  
 10 solicitations.

11 **SECTION 3m.** ✓ 100.52 (1) (e) of the statutes is repealed.

12 **SECTION 3s.** ✓ 100.52 (1) (fm) of the statutes is created to read:

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15 **SECTION 4e.** ✓ 100.52 (1m) of the statutes is created to read:

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 17 with the federal trade commission to add telephone numbers included in the  
 18 nonsolicitation directory, as defined in s. 100.52 (1) (e), 2011 stats., to the national  
 19 do-not-call registry.

20 **SECTION 4m.** ✓ 100.52 (2) of the statutes is repealed.

21 **SECTION 4s.** ✓ 100.52 (3) (a) of the statutes is renumbered 100.52 (3) and  
 22 amended to read:

23 100.52 (3) REGISTRATION OF TELEPHONE SOLICITORS. The department shall  
 24 promulgate rules that require any telephone solicitor who requires an employee or

1 contractor to make a telephone solicitation to a residential customer in this state to  
2 register with the department, obtain a registration number from the department,  
3 and pay ~~a~~ an initial registration fee and an annual registration renewal fee to the  
4 department. ~~The amount of the registration fee shall be based on the cost of~~  
5 ~~establishing the nonsolicitation directory, and the amount that an individual~~  
6 ~~telephone solicitor is required to pay shall be based on the number of telephone lines~~  
7 ~~used by the telephone solicitor to make telephone solicitations~~ or some other  
8 methodology established by the department by rule. The rules shall also require a  
9 telephone solicitor that registers with the department to ~~pay an annual registration~~  
10 ~~renewal fee to the department, at the time of initial registration, the time of annual~~  
11 ~~renewal, and any other time upon request of the department, provide the department~~  
12 ~~with proof that the telephone solicitor has complied with federal law in obtaining~~  
13 ~~copies and updated versions of the state do-not-call registry.~~ The amount of the  
14 ~~registration renewal fee fees~~ shall be based on the ~~cost of maintaining the~~  
15 ~~nonsolicitation directory amount required to administer and enforce this section and~~  
16 ~~to provide the amounts appropriated under s. 20.115 (1) (im).~~

17 **SECTION 5d.**<sup>✓</sup> 100.52 (3) (b) of the statutes is renumbered 100.52 (4) (d).

18 **SECTION 5h.**<sup>✓</sup> 100.52 (4) (a) 2. of the statutes is amended to read:

19 100.52 (4) (a) 2. Make a telephone solicitation to a residential customer if the  
20 nonsolicitation directory that is provided or made available to the telephone solicitor  
21 ~~under sub. (2) (d) includes a listing for the residential customer~~ telephone number  
22 that, at the time the solicitation is made, is listed on the state do-not-call registry.

23 **SECTION 5p.**<sup>✓</sup> 100.52 (4) (b) 1. of the statutes is amended to read:

1           100.52 (4) (b) 1. Require an employee or contractor to make a telephone  
2 solicitation to a person in this state unless the telephone solicitor is registered with  
3 the department under the rules promulgated under sub. (3) (a).

4           **SECTION 5t.**<sup>✓</sup> 100.52 (4) (b) 3. of the statutes is created to read:

5           100.52 (4) (b) 3. Use or possess a copy or updated version of the state  
6 do-not-call registry that the telephone solicitor has obtained in violation of federal  
7 law.”.

8           **7.** Page 4, line 15: delete “nonsolicitation directory” and substitute “state  
9 do-not-call registry”.

10          **8.** Page 5, line 1: after that line insert:<sup>✓</sup>

11          “6. A call initiated by an in-state nonprofit organization to provide information  
12 in a nonpartisan manner about voting or election times or schedules.

13          7. A call providing the recipient with the opportunity to connect to a live  
14 operator and participate in a teleconference with an elected official.”.<sup>✓</sup>

15          **9.** Page 5, line 5: delete “5.” and substitute “7.”.<sup>✓</sup>

16          **10.** Page 5, line 10: delete “(a)”.<sup>✓</sup>

17          **11.** Page 5, line 11: delete “(a)”.<sup>✓</sup>

18          **12.** Page 5, line 11: after that line insert:

19          “**SECTION 7c.**<sup>✓</sup> 100.52 (8) of the statutes is created to read:

20          100.52 (8) RULES. The department may promulgate rules to administer and  
21 enforce this section.

22          **SECTION 7g.**<sup>✓</sup> 100.52 (9) (title) of the statutes is repealed and recreated to read:

23          100.52 (9) (title) DEPARTMENT DUTIES.

24          **SECTION 7L.**<sup>✓</sup> 100.52 (9) of the statutes is renumbered 100.52 (9) (b).



