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LRB-2534/1 CTS:kjf:rs

## **2009 SENATE BILL 218**

May 26, 2009 - Introduced by Senators Erpenbach, Taylor, Coggs, Hansen and Vinehout, cosponsored by Representatives Roys, Schneider, Berceau, Black, A. Ott, Jorgensen, Pope-Roberts, Zepnick, Gunderson and Hintz. Referred to Committee on Small Business, Emergency Preparedness, Technical Colleges, and Consumer Protection.

- AN ACT to repeal 100.52 (10) (b); to renumber and amend 100.52 (10) (a); and
- 2 to create 100.52 (11) of the statutes; relating to: penalties and private actions
- 3 for violations of restrictions on telephone solicitations.

## Analysis by the Legislative Reference Bureau

Current law regulates telephone solicitation, 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 directory, maintained by the Department of Agriculture, Trade and Consumer Protection (DATCP), listing residential customers who do not wish to receive telephone solicitations. Violations of current provisions regulating telephone solicitation are subject to a forfeiture of \$100.

This bill increases the penalty for a violation to a forfeiture of not less than \$1,000 nor more than \$10,000. The bill also permits a person who suffers damages as a result of a violation to bring an action for injunctive relief and for actual damages or \$500 per violation, whichever is greater.

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:

## **SENATE BILL 218**

<b>Section 1.</b> $100.52~(10)$ (a) of the statutes is renumbered $100.52~(10)$ and
amended to read:
100.52 (10) Except as provided in par. (b), a A person who violates this section
may be required to forfeit $\$100$ not less than $\$1,000$ nor more than $\$10,000$ for each
violation.
Section 2. 100.52 (10) (b) of the statutes is repealed.
<b>Section 3.</b> 100.52 (11) of the statutes is created to read:
100.52 (11) Private cause of action. Any person who suffers damages as the
result of another person's violation of this section or any rule promulgated by the
department under this section may bring an action against the violator for injunctive
relief and to recover the amount of those damages or \$500 for each violation,
whichever is greater. Notwithstanding s. 814.04 (1), in an action under this

subsection, the court shall award a prevailing plaintiff reasonable attorney fees.

(END)