



**ASSEMBLY AMENDMENT 85,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55**

June 29, 2001 – Offered by Representative BLACK.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 112, line 15: after that line insert:

3 “(jm) Telephone solicitation regulation PR C -0- -0-”.

4 **2.** Page 296, line 15: after that line insert:

5 “**SECTION 434m.** 20.115 (8) (jm) of the statutes is created to read:

6 20.115 (8) (jm) *Telephone solicitation regulation.* All moneys received from
7 telephone solicitor registration and registration renewal fees paid under the rules
8 promulgated under s. 100.52 (3) (a) for establishing and maintaining the
9 nonsolicitation directory under s. 100.52 (2).”.

10 **3.** Page 890, line 16: after that line insert:

11 “**SECTION 2429d.** 100.264 (2) (intro.) of the statutes is amended to read:

1 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is
2 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,
3 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 ~~or~~, 100.46, or 100.52 (10)
4 (b) or a rule promulgated under one of those sections, the person shall be subject to
5 a supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by
6 the defendant, for which the violation was imposed, was perpetrated against an
7 elderly person or disabled person and if the court finds that any of the following
8 factors is present:”.

9 **4.** Page 890, line 25: after that line insert:

10 “**SECTION 2435.** 100.52 (title) of the statutes is created to read:

11 **100.52 (title) Telephone solicitations.**

12 **SECTION 2436.** 100.52 (1) (title) of the statutes is created to read:

13 100.52 (1) (title) DEFINITIONS.

14 **SECTION 2437b.** 100.52 (1) (a) of the statutes is created to read:

15 100.52 (1) (a) “Affiliate,” when used in relation to any person, means another
16 person who owns or controls, is owned or controlled by, or is under common
17 ownership or control with such person.

18 **SECTION 2438b.** 100.52 (1) (b) of the statutes is created to read:

19 100.52 (1) (b) “Basic local exchange service” has the meaning in s. 196.01 (1g).

20 **SECTION 2439b.** 100.52 (1) (c) of the statutes is created to read:

21 100.52 (1) (c) “Nonprofit organization” means a corporation, association, or
22 organization described in section 501 (c) (3), (4), (5), or (19) of the Internal Revenue
23 Code that is exempt from taxation under section 501 (a) of the Internal Revenue
24 Code.

1 **SECTION 2440b.** 100.52 (1) (d) of the statutes is created to read:

2 100.52 (1) (d) “Nonresidential customer” means a person, other than a
3 residential customer, who is furnished with telecommunications service by a
4 telecommunications utility.

5 **SECTION 2440d.** 100.52 (1) (e) of the statutes is created to read:

6 100.52 (1) (e) “Nonsolicitation directory” means the directory established in
7 rules promulgated by the department under sub. (2) (b).

8 **SECTION 2440f.** 100.52 (1) (f) of the statutes is created to read:

9 100.52 (1) (f) “Residential customer” means an individual who is furnished
10 with basic local exchange service by a telecommunications utility, but does not
11 include an individual who operates a business at his or her residence.

12 **SECTION 2440h.** 100.52 (1) (g) of the statutes is created to read:

13 100.52 (1) (g) “Telecommunications service” has the meaning given in s. 196.01
14 (9m).

15 **SECTION 2440j.** 100.52 (1) (h) of the statutes is created to read:

16 100.52 (1) (h) “Telecommunications utility” has the meaning given in s. 196.01
17 (10).

18 **SECTION 2440L.** 100.52 (1) (j) of the statutes is created to read:

19 100.52 (1) (j) “Telephone solicitor” means a person, other than a nonprofit
20 organization or an employee or contractor of a nonprofit organization, that employs
21 or contracts with an individual to make a telephone solicitation.

22 **SECTION 2440n.** 100.52 (2) of the statutes is created to read:

23 100.52 (2) NONSOLICITATION DIRECTORY LISTING. (a) Upon a request by a
24 residential customer, the department shall include in the nonsolicitation directory

1 a listing indicating that the residential customer does not want to receive any
2 telephone solicitation made on behalf of a telephone solicitor.

3 (b) The department shall promulgate rules for establishing, maintaining, and
4 semiannually updating a directory that includes listings of residential customers
5 who do not wish to receive telephone solicitations made on behalf of telephone
6 solicitors. The rules promulgated under this paragraph shall establish requirements
7 and procedures for a residential customer to request a listing in the directory. The
8 rules shall also require a residential customer who requests a listing in the directory
9 to notify the department on a biennial basis if the residential customer wishes to
10 continue to be included in the directory. The department shall eliminate a
11 residential customer from the directory if the customer does not make the biennial
12 notification.

13 (c) Except for copies of the nonsolicitation directory that are provided to
14 registered telephone solicitors under par. (d), the nonsolicitation directory is not
15 subject to inspection, copying, or receipt under s. 19.35 (1) and may not be released
16 by the department.

17 (d) The department shall, on a semiannual basis, make the nonsolicitation
18 directory available by electronic transmission only to telephone solicitors who are
19 registered under sub. (3). Upon the request of a telephone solicitor registered under
20 sub. (3), the department shall also provide a printed copy of the nonsolicitation
21 directory to the telephone solicitor. A telephone solicitor who receives a copy of the
22 directory, or to whom the directory is made available by electronic transmission,
23 under this paragraph may not solicit or accept from any person, directly or indirectly,
24 anything of value in exchange for providing the person with any information
25 included in the copy.

1 **SECTION 2441b.** 100.52 (3) of the statutes is created to read:

2 100.52 (3) REGISTRATION OF TELEPHONE SOLICITORS. (a) The department shall
3 promulgate rules that require any telephone solicitor who requires an employee or
4 contractor to make a telephone solicitation to a residential customer in this state to
5 register with the department, obtain a registration number from the department,
6 and pay a registration fee to the department. The amount of the registration fee shall
7 be based on the cost of establishing the nonsolicitation directory, and the amount that
8 an individual telephone solicitor is required to pay shall be based on the number of
9 telephone lines used by the telephone solicitor to make telephone solicitations. The
10 rules shall also require a telephone solicitor that registers with the department to
11 pay an annual registration renewal fee to the department. The amount of the
12 registration renewal fee shall be based on the cost of maintaining the nonsolicitation
13 directory.

14 (b) The department shall promulgate rules that require an individual who
15 makes a telephone solicitation on behalf of a telephone solicitor to identify at the
16 beginning of the telephone conversation each of the following:

17 1. The telephone solicitor.

18 2. If different than the telephone solicitor, the person selling the property,
19 goods, or services, or receiving the contribution, donation, grant, or pledge of money,
20 credit, property, or other thing of any kind, that is the reason for the telephone
21 solicitation.

22 **SECTION 2442b.** 100.52 (4) (title) of the statutes is created to read:

23 100.52 (4) (title) TELEPHONE SOLICITOR REQUIREMENTS.

24 **SECTION 2442d.** 100.52 (4) (a) 2. and 3. of the statutes are created to read:

1 100.52 (4) (a) 2. Make a telephone solicitation to a residential customer if the
2 nonsolicitation directory that is provided or made available to the telephone solicitor
3 under sub. (2) (d) includes a listing for the residential customer.

4 3. Make a telephone solicitation to a nonresidential customer if the
5 nonresidential customer has provided notice by mail to the telephone solicitor that
6 the nonresidential customer does not wish to receive telephone solicitations.

7 **SECTION 2442f.** 100.52 (4) (b) of the statutes is created to read:

8 100.52 (4) (b) A telephone solicitor may not do any of the following:

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

12 2. Require an employee or contractor to make a telephone solicitation that
13 violates par. (a).

14 **SECTION 2442h.** 100.52 (4) (c) of the statutes is created to read:

15 100.52 (4) (c) A telephone solicitor or employee or contractor of a telephone
16 solicitor that makes a telephone solicitation to a nonresidential customer shall, upon
17 the request of the nonresidential customer, provide the mailing address for notifying
18 the telephone solicitor that the nonresidential customer does not wish to receive
19 telephone solicitations.

20 **SECTION 2443b.** 100.52 (5) of the statutes is created to read:

21 100.52 (5) **NONPROFIT ORGANIZATION REQUIREMENTS.** A nonprofit organization or
22 an employee or contractor of a nonprofit organization may not make a telephone
23 solicitation to a residential customer if the residential customer has provided notice
24 by telephone, mail, or facsimile transmission to the nonprofit organization that the
25 residential customer does not wish to receive telephone solicitations. A nonprofit

1 organization may not require an employee or contractor to make a telephone
2 solicitation that violates this subsection.

3 **SECTION 2444b.** 100.52 (6) of the statutes is created to read:

4 100.52 (6) EXCEPTIONS. Subsections (4) (a) 2. and 3. and (5) do not apply to a
5 telephone solicitation that satisfies any of the following:

6 (a) The telephone solicitation is made to a recipient in response to the
7 recipient's express written request for the telephone solicitation.

8 (b) The telephone solicitation is made to a recipient who is a current client of
9 the person selling the property, goods, or services, or receiving the contribution,
10 donation, grant, or pledge of money, credit, property, or other thing of any kind, that
11 is the reason for the telephone solicitation. This paragraph does not apply if the
12 recipient is a current client of an affiliate of such a person, but is not a current client
13 of such a person.

14 **SECTION 2445b.** 100.52 (7) of the statutes is created to read:

15 100.52 (7) TERRITORIAL APPLICATION. This section applies to any interstate
16 telephone solicitation received by a person in this state and to any intrastate
17 telephone solicitation.

18 **SECTION 2446b.** 100.52 (8) of the statutes is created to read:

19 100.52 (8) PRIVATE CAUSE OF ACTION. Any person who suffers damages as the
20 result of another person violating this section may bring an action against the person
21 who violated this section to recover the amount of those damages.

22 **SECTION 2446d.** 100.52 (9) of the statutes is created to read:

23 100.52 (9) ENFORCEMENT. The department shall investigate violations of this
24 section and may bring an action for temporary or permanent injunctive or other relief
25 for any violation of this section.

1 **SECTION 2446f.** 100.52 (10) of the statutes is created to read:

2 100.52 (10) PENALTIES. (a) Except as provided in par. (b), a person who violates
3 this section may be required to forfeit not less than \$100 nor more than \$500 for each
4 violation.

5 (b) A telephone solicitor that violates sub. (4) or a nonprofit organization that
6 violates sub. (5) may be required to forfeit not less than \$1,000 nor more than \$10,000
7 for each violation.”.

8 **5.** Page 940, line 4: after that line insert:

9 “**SECTION 2818.** 134.72 (title) of the statutes is amended to read:

10 **134.72** (title) **Prohibition of certain unsolicited messages by telephone**
11 **or facsimile machine.**

12 **SECTION 2819b.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (i) and
13 amended to read:

14 100.52 (1) (i) “Telephone solicitation” means the unsolicited initiation of a
15 telephone conversation for the purpose of encouraging a person the recipient of the
16 telephone call to purchase property, goods or services or to make a contribution,
17 donation, grant, or pledge of money, credit, property, or other thing of any kind or
18 value.

19 **SECTION 2820d.** 134.72 (2) (a) (title) of the statutes is repealed.

20 **SECTION 2821b.** 134.72 (2) (a) of the statutes is renumbered 100.52 (4) (a)
21 (intro.) and amended to read:

22 100.52 (4) (a) (intro.) No person may use A telephone solicitor or an employee
23 or contractor of a telephone solicitor may not do any of the following:

1 1. Use an electronically prerecorded message in telephone solicitation without
2 the consent of the person called recipient of the telephone call.

3 **SECTION 2822.** 134.72 (2) (b) (title) of the statutes is repealed.

4 **SECTION 2822m.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and
5 134.72 (2) (b), as renumbered, is amended to read:

6 134.72 (2) (b) Notwithstanding ~~subd. 1. par. (a)~~, a person may not make a
7 facsimile solicitation to a person who has notified the facsimile solicitor in writing
8 or by facsimile transmission that the person does not want to receive facsimile
9 solicitation.

10 **SECTION 2824.** 134.72 (3) (a) of the statutes is amended to read:

11 134.72 (3) (a) *Intrastate.* This section applies to any ~~intrastate telephone~~
12 ~~solicitation or intrastate facsimile solicitation.~~

13 **SECTION 2825.** 134.72 (3) (b) of the statutes is amended to read:

14 134.72 (3) (b) *Interstate.* This section applies to any ~~interstate telephone~~
15 ~~solicitation, or interstate facsimile solicitation,~~ received by a person in this state.

16 **SECTION 2826.** 134.72 (4) of the statutes is amended to read:

17 134.72 (4) PENALTY. A person who violates this section may be required to
18 forfeit ~~up to~~ not more than \$500.”.

19 **6.** Page 1300, line 12: after that line insert:

20 “(4r) TELEPHONE SOLICITATION REGULATION. The authorized FTE positions for the
21 department of agriculture, trade and consumer protection are increased by 5.5 PR
22 positions, to be funded from the appropriation under section 20.115 (8) (jm) of the

1 statutes, as created by this act, for the purpose of regulating telephone solicitations
2 under section 100.52 of the statutes, as created by this act.”.

3 (END)