



1997 ASSEMBLY BILL 400

June 4, 1997 - Introduced by Representatives BAUMGART, BLACK, GRONEMUS, GUNDERSON, HASENOHRL, KELSO, MURAT, NOTESTEIN and R. YOUNG. Referred to Committee on Consumer Affairs.

- 1 **AN ACT to create** 134.73 of the statutes; **relating to:** regulating residential
2 telephone solicitation and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill imposes restrictions on residential telephone solicitation for certain goods and services. The bill limits the unsolicited initiation of telephone conversations that encourage the purchase of tangible personal property, cemetery lots or time shares.

Under the bill, a telephone solicitor must immediately disclose his or her name and disclose on whose behalf the solicitor is calling. Within 30 seconds, the solicitor must ask the person called if the person is interested in listening to a sales presentation and end the call if the person is not interested.

The bill permits a residential consumer to request a telephone directory listing indicating that the consumer does not wish to receive telephone solicitation. A telephone solicitor may not conduct solicitation to a residential consumer with such a listing or to a residential consumer with an unpublished telephone number.

The disclosure requirements and solicitation restrictions in this bill do not apply to a telephone solicitor who contacts members of a political party or a charitable organization on behalf of the political party or charitable organization or to a telephone solicitor who solicits donations of used or secondhand personal property that is to be resold to the public at a retail establishment.

A telephone solicitor who violates the disclosure or solicitation requirements must forfeit not less than \$25 nor more than \$500 for each violation. The department of justice is authorized to enforce the disclosure and solicitation requirements of this bill.

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For further information see the *state and local* 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.** 134.73 of the statutes is created to read:

2 **134.73 Residential telephone solicitation. (1) DEFINITIONS.** In this section:

3 (a) “Consumer goods and services” means any of the following:

4 1. Tangible personal property that is normally used for personal, family or
5 household purposes, including property intended to be attached to or installed in real
6 property and including services related to the property.

7 2. A cemetery lot.

8 3. A time share, as defined in s. 707.02 (24).

9 (b) “Residential consumer” means an individual who lives in a dwelling unit
10 that is located in this state and that is furnished with a telecommunications service
11 by a telecommunications utility.

12 (c) “Telecommunications service” has the meaning given in s. 196.01 (9m).

13 (d) “Telecommunications utility” has the meaning given in s. 196.01 (10).

14 (e) “Telephone directory” means the telephone directory distributed to the
15 general public by the telecommunications utility furnishing local exchange
16 telecommunications service to a residential consumer.

17 (f) “Telephone solicitation” means the unsolicited initiation of a telephone
18 conversation for the purpose of encouraging a person to purchase consumer goods
19 and services.

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1 **(2) DISCLOSURES.** Except as provided in sub. (5), a person conducting telephone
2 solicitation using a telephone number of a residential consumer shall do all of the
3 following:

4 (a) Immediately identify himself or herself and the person on whose behalf he
5 or she is conducting telephone solicitation.

6 (b) Within 30 seconds after initiating the conversation, ask if the person being
7 solicited is interested in listening to a sales presentation and immediately end the
8 telephone solicitation if the person being solicited gives a negative response

9 **(3) DIRECTORY LISTING.** (a) If a residential consumer requests, a
10 telecommunications utility furnishing local exchange telecommunications service to
11 the residential consumer shall include in the telephone directory a listing or symbol
12 indicating that the residential consumer does not wish to receive telephone
13 solicitation.

14 (b) A telecommunications utility may not be held liable for any error or
15 omission in a telephone directory listing requested under par. (a).

16 (c) A telecommunications utility may impose a one-time charge applicable to
17 a change in a directory listing for a listing requested under par. (a). The public
18 service commission shall have jurisdiction over charges imposed under this
19 paragraph.

20 **(4) PROHIBITIONS.** (a) Except as provided in sub. (5), a person may not conduct
21 telephone solicitation using a telephone number of a residential consumer if the
22 telephone directory in effect at the time of the telephone solicitation includes a listing
23 or symbol indicating that the residential consumer does not wish to receive telephone
24 solicitation.

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1 (b) Except as provided in sub. (5), a person may not conduct telephone
2 solicitation to a telephone number of a residential consumer if the residential
3 consumer requested an unpublished telephone number and the telephone number
4 does not appear in the telephone directory in effect at the time of the telephone
5 solicitation.

6 **(5) EXEMPTIONS.** Subsections (2) and (4) do not apply to a person conducting
7 telephone solicitation for any of the following reasons:

8 (a) On behalf of a political party, a religious, charitable, service, fraternal, labor
9 or veterans organization or an organization to which contributions are deductible for
10 federal or state income tax purposes, if the telephone solicitation is to a member of
11 that political party or organization.

12 (b) To solicit donations of used or secondhand personal property, if the donated
13 personal property is to be resold to the public at a retail establishment.

14 **(6) TERRITORIAL APPLICATION.** This section applies to any intrastate telephone
15 solicitation and to any interstate telephone solicitation directed to or received by a
16 person in this state.

17 **(7) PENALTY; ENFORCEMENT.** (a) A person who violates sub. (2) or (4) shall forfeit
18 not less than \$25 nor more than \$500 for each violation.

19 (b) The attorney general and the district attorneys of this state have concurrent
20 authority to institute civil proceedings under this section.

21 (c) 1. In addition to or in lieu of seeking the penalty under par. (a), the attorney
22 general or a district attorney may institute injunctive proceedings to enforce sub. (2)
23 or (4).

24 2. A person who violates the terms of an injunction issued under subd. 1. shall
25 forfeit not less than \$500 nor more than \$1,000 for each violation.

