



Budget Briefs

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NO CALL LIST AND CELL PHONES

2007 Wisconsin Act 226, the budget adjustment act, passed by the legislature and signed by Governor Doyle on May 16, 2008, includes a provision that allows cellular telephones to be added to the state's nonsolicitation directory, popularly known as the No Call List. Act 226 became effective on May 31, 2008.

CELL PHONE USE

According to figures from the Federal Communications Commission (FCC), more people are abandoning residential landlines and are instead relying on cell phones as their main mode of telephone communication. The No Call List was expanded to include cell phones in response to rising consumer concerns about telemarketers contacting their mobile numbers. Many cell phone plans charge customers by the number of minutes used; incoming calls from telemarketers are often included in these minutes.

Currently, more than 1.1 million phone lines are registered on the No Call List. The Department of Agriculture, Trade and Consumer Protection (DATCP) estimates that the list will increase by approximately 2.8 million numbers with the new cell phone provision. Administration and enforcement efforts are expected to increase by 200 percent.

BACKGROUND

The state's nonsolicitation directory was created as part of 2001 Wisconsin Act 16, the biennial state budget act for the 2001-02 fiscal year. The directory allows individuals in Wisconsin to register for inclusion in a No

Call List; telemarketers may not make a telephone solicitation to residential customers whose telephone numbers are included in the directory.

DATCP oversees the operation and administrative rules of the No Call List program, which officially began on January 1, 2003. The program is funded by fees charged to telemarketers, who are required to register with DATCP on an annual basis. If registrants make sales calls in violation of the law, they are subject to a \$100 forfeiture for each incident.

The department compiles and distributes an updated No Call List every three months to each telemarketer currently registered with DATCP. To be included on the list, residential customers must contact the department and apply by phone or through the Web site. Customers are deleted from the list after two years but are able to renew their inclusion in the listing at any time.

While the inclusion of cell phones on the No Call List was considered when the legislation was first introduced, the law that was passed applied only to residential landlines. (For more information on the No Call List and its origin, see LRB Budget Brief 01-5.)

LEGISLATION TO ADD CELL PHONES

Bills to add cell phones to the No Call List were introduced during the 2005-06 and 2007-08 sessions. Senator Erpenbach, who introduced the original No Call legislation in 2001, was the primary author of 2005 Senate Bill 116 and 2007 Senate Bill 99. Both bills failed to pass; however, the cell phone measure was subsequently added to the 2008 March Special Session budget adjustment act.

2007 Wisconsin Act 226. Act 226 makes changes to Section 100.52, Wisconsin Statutes, creating a definition for “commercial mobile service” and including the term in the definition of “residential customer”:

“Residential customer” means an individual who is furnished with basic local exchange service *or commercial mobile service* by a telecommunications utility, but does not include an individual who operates a business at his or her residence.

The act effectively adds cell phones to the No Call List, but does not include other major provisions of 2005 Senate Bill 116 and 2007 Senate Bill 99.

2005 Senate Bill 116. Senator Erpenbach was joined by Senator Olsen and Representatives Shilling and Black in introducing 2005 Senate Bill 116 on March 15, 2005. Major provisions of the bill called for 1) extending the No Call List to cell phones, 2) adding small businesses as eligible customers, and 3) increasing the fines for violation. The 2005 legislative session ended without the bill being taken up.

The most controversial measure of the bill was to increase the current \$100 forfeiture to a forfeiture of not less than \$1,000 nor more than \$10,000 per violation. These higher maximum fines were approved by the legislature in the original No Call legislation in 2001, but Governor McCallum used his veto power to reduce the fine, stating in his veto message that he considered the \$10,000 fine excessive.

2007 Senate Bill 99. 2007 Senate Bill 99, introduced on March 20, 2007, by Senators Erpenbach and Kreitlow and cosponsored by Representatives Shilling and Smith, was a redraft of 2005 Senate Bill 116.

On January 31, 2008, the Joint Committee on Finance introduced and adopted Senate Substitute Amendment 1 to 2007 Senate Bill 99. The substitute amendment removed small businesses as an eligible customer of the No Call List program and decreased the maximum forfeiture from \$10,000 to \$1,000 per violation. The substitute amendment passed unanimously in the senate on February 19, 2008, but the general floor session ended before the assembly took up the bill.

GETTING ON THE LIST

Consumers who wish to have their cell phone numbers included on the list must sign up with DATCP. Registration deadlines are on the first of December, March, June, and September.

FURTHER INFORMATION

For more information about Wisconsin’s No Call List, see the Wisconsin Department of Agriculture, Trade and Consumer Protection Web site at:

<https://nocall.wisconsin.gov/web/home.asp>

For more information about how the No Call List began in Wisconsin, see LRB Budget Brief 01-5 at: www.legis.wi.gov/lrb/pubs/budbriefs/01bb5.pdf

A copy of 2007 Wisconsin Act 226 can be viewed at: <http://www.legis.wi.gov/2007/data/acts/07Act226.pdf>

A copy of 2005 Senate Bill 116 can be viewed at: www.legis.wi.gov/2005/data/SB-116.pdf

A copy of 2007 Senate Bill 99 can be viewed at: www.legis.wi.gov/2007/data/SB-99.pdf

Section 100.52, Wisconsin Statutes, can be viewed at: www.legis.wi.gov/statutes/Stat0100.pdf