

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2437

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2437

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2437

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date February 6, 2001.

Tape Number	Side A	Side B	Meter #
1	x		15 to end
1		x	0 to 7.6
2	x		31.6 to 39.8
Committee Clerk Signature <i>Cris P. Rice</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2437 relating to telephone solicitation sales; to provide a penalty; and to provide an effective date.

SENATOR MIKE EVERY, District 12: Cosponsor of this bill. The intent is to put in place a process to protect ND citizens from unwanted telemarketing calls. Written testimony attached.

SUSAN WEFALD, Public Service Commission, on her own behalf, not representing the PSC.

In favor. Written testimony attached.

JACK MCDONALD, ND Newspaper Assn.; DeHart & Darr. In opposition. The same protections are already available at the federal level. This bill will adversely affect ND telemarketing industry. Written testimony attached.

JERRY MALEY, Performance Centers Inc. Opposes this bill. Consumers can get their names on a national no call list free of charge. Telemarketers who belong to the DMA scrub their lists from

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Senate Industry, Business and Labor Committee  
Bill/Resolution Number SB 2437  
Hearing Date February 06, 2001.

the national list. Consumers already have the option of this list and can also go to the attorney general. This will not solve the problem of the fly-by-night out of state operations. It will be detrimental to the telemarketing industry if states start legislating on this issue. The approach should be to make the industry discipline itself and it should be done at the federal level. Think of the jobs this industry brings to ND. Only about 1% of our calls are inside ND.

BRENDA DUSSET, ND Assn. of Nonprofit Orgs. Opposes this bill because it will negatively affect nonprofit organizations' fundraising activities. Maybe what is needed is educating the public about the options already in place.

MARILYN FOSS, submitted written testimony on behalf of WorldCom, Inc. There are consumer protection mechanisms already put in place by the FTC and the FCC.

THOMAS F KELSCH, AT&T, faxed testimony opposing this bill distributed.

Hearing closed.

Committee reconvened. (Tape 2-A-31.6 to 39.8) All members present. Discussion held.

SENATOR TOLLEFSON: This is really an interstate issue since most calls come from out of state.

SENATOR KLEIN: If somebody were actually wronged they have recourse with the attorney general.

SENATOR D. MATHERN: More people need to be made aware of the opt out list.

SENATOR KLEIN: Motion: do not pass. SENATOR TOLLEFSON: Seconded.

Roll call vote: 5 yes; 2 no. Carrier: SENATOR TOLLEFSON

**FISCAL NOTE**  
 Requested by Legislative Council  
 01/30/2001

Bill/Resolution No.: SB 2437

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$39,500	\$0	\$39,500	\$0
<b>Expenditures</b>	\$0	\$0	\$46,280	\$0	\$42,930	\$0
<b>Appropriations</b>	\$0	\$0	\$46,280	\$0	\$42,930	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Fiscal impact (expenditures) would be caused by the creation and maintenance of the "do not call" list, as well as by enforcement of violations. Fiscal impact (revenues) would also be caused by customers being charged a fee for being on the list, changing the information on the list or being deleted from the list, as well as for telemarketer access to the "do not call" list.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The bill allow charges of up to \$5 for each residential customer inclusion in, change to, or deletion from the list, as well as an annual charge of \$10 for each telemarketer to have access to the list. Due to our assumption that the most efficient method of creating and maintaining the list is a web-based system, we do not at this time estimate that the maximum charges would have to be imposed on customers. We do not have a hard number estimate for either customers impacting the list, or telemarketers accessing the list, so we are using a revenue impact based on 10,000 list impacts per biennium, and 100 telemarketer access requests per year. The revenue impact given above is the midpoint between, at the low end, the revenue that would be generated by 200 telemarketer requests at \$10 each, plus 10,000 customer charges at \$2.50 each and, at the high end, the same telemarketer revenue plus 10,000 customer charges at \$5 each. The low end of the estimate is \$27,000, the high end of the estimate is \$52,000. The midpoint, reflected in the box above, is \$39,500.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Estimated expenditures include creation and maintenance of the list (a PSC expenditure) and enforcement (an Attorney General expenditure).

The PSC assumes creation of a web-based list, with customers inputting their own data onto the list site and telemarketers obtaining updated list information from the web site. The PSC has consulted with the Information Technology Division about estimated costs associated with FTD's creation and maintenance of the web-based list. These costs are estimated to include a one time cost of approximately \$3350 for creation of the site, including the ability to accept payment by credit card, and ongoing monthly costs of approximately \$320. Consequently, the PSC has estimated the costs for the 2001-03 biennium at \$11,030 and for the 2003-05 biennium at \$7680.

The Attorney General's Consumer Protection Division has estimated the need for an additional one-half FTE for enforcement purposes. The Division estimates the costs for the additional one-half FTE at \$32,500 per biennium. The Division also estimates an additional biennial amount of \$2750 in its operating line item for hearing officer services for enforcement proceedings.

These total the estimated expenditures noted above, \$46,280 for the 2001-03 biennium and \$42,930 for the 2003-05 biennium.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Appropriations would be required for all operating line item increases and the additional one-half FTE noted in the Expenditures section, above, for both the PSC and the Attorney General's Consumer Protection Division.

<b>Name:</b>	Ilona Jeffcoat-Sacco	<b>Agency:</b>	PSC
<b>Phone Number:</b>	328-2407	<b>Date Prepared:</b>	02/05/2001

Date: Feb 26/01  
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2437

Senate Industry, Business and Labor Committee

- Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Sen Klein Seconded By Sen Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every		✓
Senator Klein - Vice Chairman	✓		Senator Mathern		✓
Senator Espegard	✓				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Tollefson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
February 6, 2001 2:58 p.m.

Module No: SR-21-2516  
Carrier: Tollefson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2437: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends  
DO NOT PASS (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2437 was  
placed on the Eleventh order on the calendar.**



2001 TESTIMONY  
SB 2437

## Testimony on SB 2437

**Mr. Chairman and members of the Committee:**

For the record my name is Sen. Mike Every of Minnewaukan. I represent District 12. Over the last several months as I traveled across our district visiting with people, I got to meet many people and one of the recurring issues that was brought up was infringement of personal family time by telemarketers. We've all experienced this at one time or another. In most of our homes it happens on a daily basis. I'm not saying it was the biggest issue on people's minds, but I heard it enough, that I thought it deserves attention. Something needs to be done about this issue. I'm not saying we should infringe upon the rights of good telemarketing companies. A lot of our small communities have good reputable telemarketing companies that are employing our local folks and helping our economy grow. What I'm trying to do with SB 2437 is put in place a process that will protect our citizens from unwanted telemarketing calls that have become nuisances.

I'll be the first to admit that the bill may not be perfect and would offer some suggestions that will make the bill even more workable. But what this bill attempts to do is protect North Dakota consumers, while attacking problems through government. This bill will protect good businesses while holding unscrupulous out of state telemarketers from scamming our most vulnerable people. This is the reason behind the bill, now I'll briefly attempt to explain the sections of the bill.

Section - 01 of the bill gives the definitions of the bill.

Section - 02 of the bill explains what is prohibited by telemarketers.

Section - 03 of the bill establishes a database by the Public Service Commission and gives the PSC authority for rules and regulations, for a no call list. One intention would be to have the PSC in their rule making authority, use their website to have forms available to collect the names of consumers.

Section - 04 of the bill allows the commission to use a national database if implemented by the FCC.

Section – 05 of the bill sets up a fee of \$5.00 for the consumer to be put on a no call list, while charging the telemarketer \$10.00 to get access to the list. The section also sets up costs for copies of the PSC lists.

Section – 06 of the bill sets up a process where the telemarketer has to identify themselves and if asked must give the consumer a valid telephone number and address.

Section – 07 of the bill gives the Attorney General the authority to stop the telemarketer and collect a civil penalty if warranted.

Section – 08 of the bill gives the Attorney General its' power for investigating complaints and sets up rules and procedures to do this.

Section – 09 of the bill sets up the cost recovery process.

Section – 10 of the bill sets up the process for the consumer to bring action against a company who violates the law.

Section – 11 of the bill limits the time a consumer can bring action against a company.

Section – 12 of the bill spells out other penalties in section 51-15 can also be applied.

Section –13 of the bill protects the telephone company who provides caller ID service from liability.

Section 2 of the bill provides the effective date for establish the database in August of 2001 and provides an August of 2002 for all other purposes of the bill.

Mr. Chairman and members of the Committee: One addition to the bill would be to set-up a registration process to know who's making the solicitation calls in the state. I plan to have amendments drawn up that will address the registration needs. I intend to work with the Public Service Commission and the Attorney General's office to make necessary additional changes.

## **SB 2437**

**Presented By: Susan E. Wefald  
Public Service Commission**

**Before: House Industry, Business, and Labor Committee  
Duane Mutch, Chairman**

**Date: February 6, 2001**

### **TESTIMONY**

Mr. Chairman and members of the Senate Committee on Industry, Business, and Labor, I am Public Service Commissioner Susan Wefald. I am offering my own testimony on this bill today and am not speaking in behalf of the whole Commission. I am in support of 2437.

SB 2437 is an attempt to address problems associated with telemarketing and for this reason I support it.

Unlike an outright prohibition or a burdensome financial obligation, SB 2437 creates a scheme that is voluntary for consumers with only a minimal financial impact on telemarketers. I believe the proposal offers good protection to consumers who want it, without unnecessarily burdening an important industry.

I believe the following components of this legislation are key to its benefits: Most importantly, appearing on the list is within the control of each consumer. If limiting telemarketing calls is important to a person, that person can be on this list for a nominal fee. Likewise, the consumer also has a choice regarding whether or not he will receive telemarketing calls representing charitable organizations. It is important to note that this proposed legislation does not allow any other exemptions. In some other states that have enacted this type of legislation, there are numerous exemptions which allow many telemarketers to call, even if a person has signed up to be on the "list." It is important to the spirit of this

