



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB5379

Introduced 1/31/2022, by Rep. Daniel Didech

#### SYNOPSIS AS INTRODUCED:

815 ILCS 511/5  
815 ILCS 511/10

Amends the Electronic Mail Act. Provides that initiators of unsolicited electronic mail advertisements must include an unsubscribe button or unsubscribe link within the heading and closing of every unsolicited electronic mail advertisement so that the recipient of the unsolicited electronic mail advertisement may immediately notify the sender of his or her decision to unsubscribe without taking further action. Provides that provisions concerning unsolicited or misleading electronic mail apply when the unsolicited electronic mail advertisement is delivered to an Illinois resident via an electronic mail service provider's service or equipment located in this State or in another state or territory under U.S. jurisdiction (rather than in this State only). Defines terms.

LRB102 25384 SPS 34664 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Electronic Mail Act is amended by changing  
5 Sections 5 and 10 as follows:

6 (815 ILCS 511/5)

7 Sec. 5. Definitions. As used in this Act:

8 "Electronic mail advertisement" means any electronic mail  
9 message, the principal purpose of which is to promote,  
10 directly or indirectly, the sale or other distribution of  
11 goods or services to the recipient or any activity in support  
12 of, or in connection with, any campaign for elective office or  
13 any political organization.

14 "Unsolicited electronic mail advertisement" means any  
15 electronic mail advertisement that (i) is addressed to a  
16 recipient with whom the initiator does not have a prior or  
17 existing business or personal relationship and (ii) is not  
18 sent at the request of or with the express consent of the  
19 recipient.

20 "Electronic mail service provider" means any business or  
21 organization qualified to do business in Illinois that  
22 provides registered users the ability to send or receive  
23 electronic mail through equipment located in this State or in

1 another state or territory under U.S. jurisdiction and that is  
2 an intermediary in sending or receiving electronic mail.

3 "Initiation" of an electronic mail message refers to the  
4 action by the initial sender of the electronic mail message.  
5 "Initiation" does not refer to the actions of any intervening  
6 electronic mail service provider that may handle or retransmit  
7 the electronic mail message.

8 "Registered user" means any individual or entity that  
9 maintains an electronic mail address with an electronic mail  
10 service provider.

11 "Electronic mail address" means a destination, commonly  
12 expressed as a string of characters, to which electronic mail  
13 may be sent or delivered.

14 "Internet domain name" refers to a globally unique,  
15 hierarchical reference to an Internet host or service,  
16 assigned through centralized Internet naming authorities,  
17 comprising a series of character strings separated by periods,  
18 with the right-most string specifying the top of the  
19 hierarchy.

20 "Unsubscribe button" or "unsubscribe link" means a button  
21 embedded with a working hyperlink or text with an embedded  
22 working hyperlink that allows the recipient of an unsolicited  
23 electronic mail advertisement to immediately notify the  
24 initiator of the unsolicited electronic mailing advertisement  
25 of his or her decision to no longer receive further  
26 unsolicited electronic mail advertisements.

1 (Source: P.A. 91-233, eff. 1-1-00.)

2 (815 ILCS 511/10)

3 Sec. 10. Unsolicited or misleading electronic mail;  
4 prohibition.

5 (a) No individual or entity may initiate or cause to be  
6 initiated an unsolicited electronic mail advertisement if the  
7 electronic mail advertisement (i) uses a third party's  
8 Internet domain name without permission of the third party, or  
9 otherwise misrepresents any information in identifying the  
10 point of origin or the transmission path of an electronic mail  
11 advertisement or (ii) contains false or misleading information  
12 in the subject line.

13 (a-5) An initiator of an unsolicited electronic mail  
14 advertisement must establish a toll-free telephone number or  
15 valid sender-operated return electronic mail address that the  
16 recipient of the unsolicited electronic mail advertisement may  
17 call or electronically mail to notify the sender not to  
18 electronically mail any further unsolicited electronic mail  
19 advertisements. In addition, initiators of unsolicited  
20 electronic mail advertisements must include an unsubscribe  
21 button or unsubscribe link within the heading and closing of  
22 every unsolicited electronic mail advertisement so that the  
23 recipient of the unsolicited electronic mail advertisement may  
24 immediately notify the sender of his or her decision to  
25 unsubscribe without taking further action. The unsubscribe

1 button or unsubscribe link must clearly state "UNSUBSCRIBE" in  
2 all capital letters.

3 (a-10) An initiator of an unsolicited electronic mail  
4 advertisement is prohibited from selling or transferring in  
5 any manner the electronic mail address of any person who has  
6 notified the initiator that the person does not want to  
7 receive any further unsolicited electronic mail  
8 advertisements.

9 (a-15) Each unsolicited electronic mail advertisement's  
10 subject line shall include "ADV:" as its first 4 characters.  
11 For any unsolicited electronic mail advertisement that  
12 contains information regarding the lease, sale, rental, gift  
13 offer, or other disposition of any realty, goods, services, or  
14 extension of credit, that may only be viewed, purchased,  
15 rented, leased, or held in possession by an individual 18  
16 years of age and older, the subject line of each and every  
17 message shall include "ADV:ADLT" as the first 8 characters.

18 (b) This Section applies when the unsolicited electronic  
19 mail advertisement is delivered to an Illinois resident via an  
20 electronic mail service provider's service or equipment  
21 located in this State or in another state or territory under  
22 U.S. jurisdiction.

23 (c) Any person, other than an electronic mail service  
24 provider, who suffers actual damages as a result of a  
25 violation of this Section committed by any individual or  
26 entity may bring an action against such individual or entity.

1 The injured person may recover attorney's fees and costs, and  
2 may elect, in lieu of recovery of actual damages, to recover  
3 the lesser of \$10 for each and every unsolicited electronic  
4 mail advertisement transmitted in violation of this Section,  
5 or \$25,000 per day. The injured person shall not have a cause  
6 of action against the electronic mail service provider that  
7 merely transmits the unsolicited electronic mail advertisement  
8 over its computer network.

9 (d) Any electronic mail service provider who suffers  
10 actual damages as a result of a violation of this Section  
11 committed by any individual or entity may bring an action  
12 against such individual or entity. The injured person may  
13 recover attorney's fees and costs, and may elect, in lieu of  
14 recovery of actual damages, to recover the lesser of \$10 for  
15 each and every unsolicited electronic mail advertisement  
16 transmitted in violation of this Section, or \$25,000 per day.

17 (e) The provisions of this Section shall not be construed  
18 to limit any person's right to pursue any additional civil  
19 remedy otherwise allowed by law.

20 (f) An electronic mail service provider may, upon its own  
21 initiative, block the receipt or transmission through its  
22 service of any unsolicited electronic mail advertisement that  
23 it reasonably believes is, or will be, sent in violation of  
24 this Section.

25 (g) No electronic mail service provider may be held liable  
26 for any action voluntarily taken in good faith to block the

1 receipt or transmission through its service of any unsolicited  
2 electronic mail advertisement which it reasonably believes is,  
3 or will be, sent in violation of this Section.

4 (Source: P.A. 93-199, eff. 1-1-04.)