



Sen. Ira I. Silverstein

Filed: 3/15/2013

09800SB1615sam002

LRB098 09761 MLW 43253 a

1 AMENDMENT TO SENATE BILL 1615

2 AMENDMENT NO. _____. Amend Senate Bill 1615 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Unsolicited Text Message Act.

6 Section 5. Definitions. As used in this Act:

7 "Communication device capable of receiving text messaging"
8 means a cellular telephone, a device for paging or message
9 services, a personal digital assistant, or any other wireless
10 telecommunication device or technology for short messaging
11 services which receives text messages.

12 "Text messaging" means the wireless transmission of short
13 messages of text by means of a cellular telephone, a paging or
14 message service, a personal digital assistant, or similar
15 telecommunications technology.

16 "Unsolicited advertisement" means any message sent without

1 the prior permission of the recipient to encourage the purchase
2 or rental of, or investment in, merchandise or services.

3 Section 10. Unsolicited text message advertisements
4 prohibited. No person shall send or cause to be sent to a
5 resident of this State an unsolicited advertisement by means of
6 text messaging to a communication device capable of receiving
7 text messaging. A telecommunications company may continue to
8 send text messages to customers concerning their existing
9 accounts if the customer will not incur a telecommunications
10 charge or a usage allocation deduction as a result of the
11 message being sent.

12 Section 15. Requirement for prior permission. Prior
13 permission of the recipient to send an advertisement by means
14 of text messaging may be granted only with prior express
15 permission that includes the number to which the text message
16 advertisement may be sent. The permission may be revoked at any
17 time with a request that includes the number for which
18 permission is being revoked.

19 Section 20. Civil liability. A person who receives an
20 advertisement in violation of this Act may file a civil action
21 in the court of proper jurisdiction to recover actual damages
22 or \$500.00, whichever is greater, plus reasonable attorney fees
23 and costs. Nothing in this Section shall be construed to limit

1 the remedies available under any other federal or State law.

2 Section 25. Violation. A violation of this Act constitutes
3 an unlawful practice under the Consumer Fraud and Deceptive
4 Business Practices Act, except that a person may not be held
5 liable for a violation of Section 10 of this Act if any
6 unsolicited advertisement sent by text messaging was an
7 isolated message sent no more than one time in a 12-month
8 period.

9 Section 30. Administration of Act. The Attorney General
10 shall administer this Act and for that purpose has the powers
11 conferred under Section 4 of the Consumer Fraud and Deceptive
12 Business Practices Act.".