



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3651

by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

815 ILCS 511/5
815 ILCS 511/10

Amends the Electronic Mail Act. Provides that restrictions concerning the sending of unsolicited or misleading electronic mail messages apply also to text messages. Defines "text message" as a message sent to a cellular telephone or pager equipped with short message service or any similar capability, whether the message is initiated as a short message service message or as an electronic mail message. Makes corresponding changes.

LRB099 08499 JLS 28657 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 or text message advertisement" means any
9 electronic mail or text message, the principal purpose of which
10 is to promote, directly or indirectly, the sale or other
11 distribution of goods or services to the recipient.

12 "Text message" means a message sent to a cellular telephone
13 or pager equipped with short message service or any similar
14 capability, whether the message is initiated as a short message
15 service message or as an electronic mail message.

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

22 "Electronic mail or text message service provider" means
23 any business or organization qualified to do business in

1 Illinois that provides registered users the ability to send or
2 receive electronic mail or text messages through equipment
3 located in this State and that is an intermediary in sending or
4 receiving electronic mail or text messages.

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

11 "Registered user" means any individual or entity that
12 maintains an electronic mail or text message address with an
13 electronic mail or text message service provider.

14 "Electronic mail or text message address" means a
15 destination, commonly expressed as a string of characters, to
16 which electronic mail or text messages may be sent or
17 delivered.

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

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

24 (815 ILCS 511/10)

25 Sec. 10. Unsolicited or misleading electronic mail and text

1 messages; prohibition.

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

11 (a-5) An initiator of an unsolicited electronic mail or
12 text message advertisement must establish a toll-free
13 telephone number or valid sender-operated return electronic
14 mail address that the recipient of the unsolicited electronic
15 mail or text message advertisement may call or electronically
16 mail or text message to notify the sender not to electronically
17 mail any further unsolicited electronic mail or text message
18 advertisements.

19 (a-10) An initiator of an unsolicited electronic mail or
20 text message advertisement is prohibited from selling or
21 transferring in any manner the electronic mail or text message
22 address of any person who has notified the initiator that the
23 person does not want to receive any further unsolicited
24 electronic mail or text message advertisements.

25 (a-15) Each unsolicited electronic mail or text message
26 advertisement's subject line shall include "ADV:" as its first

1 4 characters. For any unsolicited electronic mail or text
2 message advertisement that contains information regarding the
3 lease, sale, rental, gift offer, or other disposition of any
4 realty, goods, services, or extension of credit, that may only
5 be viewed, purchased, rented, leased, or held in possession by
6 an individual 18 years of age and older, the subject line of
7 each and every message shall include "ADV:ADLT" as the first 8
8 characters.

9 (b) This Section applies when the unsolicited electronic
10 mail or text message advertisement is delivered to an Illinois
11 resident via an electronic mail or text message service
12 provider's service or equipment located in this State.

13 (c) Any person, other than an electronic mail or text
14 message service provider, who suffers actual damages as a
15 result of a violation of this Section committed by any
16 individual or entity may bring an action against such
17 individual or entity. The injured person may recover attorney's
18 fees and costs, and may elect, in lieu of recovery of actual
19 damages, to recover the lesser of \$10 for each and every
20 unsolicited electronic mail or text message advertisement
21 transmitted in violation of this Section, or \$25,000 per day.
22 The injured person shall not have a cause of action against the
23 electronic mail or text message service provider that merely
24 transmits the unsolicited electronic mail or text message
25 advertisement over its computer network.

26 (d) Any electronic mail or text message service provider

1 who suffers actual damages as a result of a violation of this
2 Section committed by any individual or entity may bring an
3 action against such individual or entity. The injured person
4 may recover attorney's fees and costs, and may elect, in lieu
5 of recovery of actual damages, to recover the lesser of \$10 for
6 each and every unsolicited electronic mail or text message
7 advertisement transmitted in violation of this Section, or
8 \$25,000 per day.

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

12 (f) An electronic mail or text message service provider
13 may, upon its own initiative, block the receipt or transmission
14 through its service of any unsolicited electronic mail or text
15 message advertisement that it reasonably believes is, or will
16 be, sent in violation of this Section.

17 (g) No electronic mail or text message service provider may
18 be held liable for any action voluntarily taken in good faith
19 to block the receipt or transmission through its service of any
20 unsolicited electronic mail or text message advertisement
21 which it reasonably believes is, or will be, sent in violation
22 of this Section.

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