

AN ACT concerning electronic mail.

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

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

(815 ILCS 511/10)

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

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

(a-5) An initiator of an unsolicited electronic mail
advertisement must establish a toll-free telephone number or
valid sender-operated return electronic mail address that the
recipient of the unsolicited electronic mail advertisement
may call or electronically mail to notify the sender not to
electronically mail any further unsolicited electronic mail
advertisements.

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

(a-15) Each unsolicited electronic mail advertisement's
subject line shall include "ADV:" as its first 4 characters.

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

(b) This Section applies 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.

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

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

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

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

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

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