
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 216 Session of
1999

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JANUARY 28, 1999

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, JANUARY 28, 1999

AN ACT

1 Regulating electronic mail and unsolicited advertising;
2 providing for notice, notification and responsibilities of
3 service providers; and providing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Electronic mail advertising material.

7 (a) General rule.--No person or entity conducting business
8 in this Commonwealth shall facsimile (fax) or cause to be faxed
9 or electronically mail (e-mail) or cause to be e-mailed
10 documents consisting of unsolicited advertising material for the
11 lease, sale, rental, gift offer or other disposition of any
12 realty, goods, services or extension of credit unless:

13 (1) In the case of a fax, that person or entity
14 establishes a toll-free telephone number that a recipient of
15 the unsolicited faxed documents may call to notify the sender
16 not to fax the recipient any further unsolicited documents.

17 (2) In the case of e-mail, that person or entity

1 establishes a toll-free telephone number or valid sender-
2 operated return e-mail address that the recipient of the
3 unsolicited documents may call or e-mail to notify the sender
4 not to e-mail any further unsolicited documents.

5 (b) Information and notification.--All unsolicited faxed or
6 e-mailed documents subject to this section shall include a
7 statement informing the recipient of the toll-free telephone
8 number that the recipient may call or a valid return address to
9 which the recipient may write or e-mail, as the case may be,
10 notifying the sender not to fax or e-mail the recipient any
11 further unsolicited documents to the fax number or numbers or e-
12 mail address or addresses specified by the recipient. In the
13 case of faxed material, the statement shall be in at least nine-
14 point type. In the case of e-mail, the statement shall be the
15 first text in the body of the message and shall be of the same
16 size as the majority of the text of the message.

17 (c) Compliance.--Upon notification by a recipient of his or
18 her request not to receive any further unsolicited faxed or e-
19 mailed documents, no person or entity conducting business in
20 this Commonwealth shall fax or cause to be faxed or e-mail or
21 cause to be e-mailed any unsolicited documents to that
22 recipient.

23 (d) Service providers.--In the case of e-mail, this section
24 shall apply when the unsolicited e-mailed documents are
25 delivered to a Pennsylvania resident via an electronic mail
26 service provider's service or equipment located in this
27 Commonwealth. For these purposes, "electronic mail service
28 provider" means any business or organization qualified to do
29 business in this Commonwealth that provides individuals,
30 corporations or other entities the ability to send or receive

1 electronic mail through equipment located in this Commonwealth
2 and that is an intermediary in sending or receiving electronic
3 mail.

4 (e) Notice of advertising.--In the case of e-mail that
5 consists of unsolicited advertising material for the lease,
6 sale, rental, gift offer or other disposition of any realty,
7 goods, service or extension of credit, the subject line of each
8 and every message shall include "ADV:" as the first four
9 characters. If these messages contain information that consists
10 of unsolicited advertising material for the lease, sale, rental,
11 gift offer or other disposition of any realty, goods, services
12 or extension of credit, that may only be viewed, purchased,
13 rented, leased or held in possession by an individual 18 years
14 of age and older, the subject line of each and every message
15 shall include "ADV:ADLT" as the first eight characters.

16 (f) Employer.--An employer who is the registered owner of
17 more than one e-mail address may notify the person or entity
18 conducting business in this Commonwealth e-mailing or causing to
19 be e-mailed, documents consisting of unsolicited advertising
20 material for the lease, sale, rental, gift offer or other
21 disposition of any realty, goods, services or extension of
22 credit of the desire to cease e-mailing on behalf of all of the
23 employees who may use employer-provided and employer-controlled
24 e-mail addresses.

25 (g) Definitions.--As used in this section, the following
26 words and phrases shall have the meanings given to them in this
27 subsection:

28 "Fax", "Cause to be faxed", "E-mail" or "Cause to be e-
29 mailed." The terms do not include or refer to the transmission
30 of any documents by a telecommunications utility or Internet

1 service provider to the extent that the telecommunications
2 utility or Internet services provider merely carries that
3 transmission over its network.

4 "Unsolicited e-mailed documents." Any e-mailed document or
5 documents consisting of advertising material for the lease,
6 sale, rental, gift offer or other disposition of any realty,
7 goods, services or extension of credit that meet both of the
8 following requirements:

9 (1) The documents are addressed to a recipient with whom
10 the initiator does not have an existing business or personal
11 relationship.

12 (2) The documents are not sent at the request of or with
13 express consent of the recipient.

14 Section 2. Penalty.

15 (a) Misdemeanor.--A person or entity who violates the
16 provisions of this act commits a misdemeanor of the third
17 degree.

18 (b) Immunity.--An Internet service provider may, upon its
19 own initiative, block the receipt or transmission through its
20 service of any electronic mail which it reasonably believes is
21 or will be sent in violation of this act.

22 Section 3. Effective date.

23 This act shall take effect in 90 days.