
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1956 Session of
1999

INTRODUCED BY BARD, ARMSTRONG, S. H. SMITH, DeLUCA, GIGLIOTTI
AND SHANER, OCTOBER 12, 1999

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, OCTOBER 12, 1999

AN ACT

1 Imposing limitations on certain telecommunication
2 advertisements; and providing for civil remedies and criminal
3 penalties.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the
8 Telecommunication Advertisement Limitation Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Advertisement." A message soliciting the sale of a good or
14 service, soliciting a contribution, or otherwise seeking a
15 monetary benefit for the person who initiated the message or on
16 whose behalf the message is initiated.

17 "Internet." The largest nonproprietary nonprofit cooperative
18 public computer network, popularly known as the Internet.

1 "Telecommunication." Any of the following:

2 (1) A telephone call, including a call made by an
3 automated dialing announcing device.

4 (2) A transmission to or from a facsimile device or
5 other telecopier.

6 (3) A communication made over the Internet or a similar
7 public computer network.

8 Section 3. Certain advertisements prohibited.

9 A person may not initiate a telecommunication for the
10 delivery of an advertisement if the delivery causes the
11 recipient of the advertisement or a service provider who stores
12 or transfers the advertisement to incur a fee, expense or other
13 damages.

14 Section 4. Civil action.

15 (a) General rule.--A person damaged by a violation of
16 section 3 may bring an action against the person who initiated
17 the telecommunication for one or more of the following:

18 (1) An injunction.

19 (2) Damages in the amount provided by subsection (c).

20 (3) Restitution of any property acquired as a result of
21 the violation.

22 (4) Court costs and reasonable attorney fees.

23 (5) Any other relief the court considers proper.

24 (b) Defense.--It is a defense to an action under this act
25 that the plaintiff, in writing or electronic format, requested
26 or consented to the initiation of the telecommunication.

27 (c) Amount of damages.--A plaintiff prevailing in an action
28 for damages under this section is entitled to the greater of
29 \$500 for each violation or the person's actual damages, except
30 that:

1 (1) if the trier of fact finds that the defendant committed
2 the violation knowingly, the plaintiff is entitled to the
3 greater of \$1,500 for each violation or three times the person's
4 actual damages; or

5 (2) if the trier of fact finds that the defendant committed
6 the violation intentionally, the plaintiff is entitled to the
7 greater of \$3,000 for each violation or six times the person's
8 actual damages.

9 (d) Groundless action; harassment.--If the court finds that
10 an action brought under this act is brought for the purpose of
11 harassment or is otherwise brought in bad faith, the defendant
12 is entitled to recover court costs and reasonable attorney fees.

13 Section 5. Failure to satisfy judgment.

14 (a) Sanctions.--Failure of a defendant to satisfy a judgment
15 against the defendant under this act before the expiration of
16 three months after the date the judgment is final is grounds for
17 revocation of the defendant's license or other authority to do
18 business in this Commonwealth or for appointment of a receiver
19 to take over the defendant's affairs. The revocation or
20 appointment must be made in the order specified by:

21 (1) An agency authorized to make such a revocation or
22 appointment.

23 (2) If no agency has authority to make the revocation or
24 appointment, an order of the court that rendered the
25 judgment.

26 (b) Costs.--The cost of any receivership under this section
27 shall be paid by the defendant.

28 Section 6. Jurisdiction and venue.

29 (a) Jurisdiction.--This act applies to a telecommunication
30 for the delivery of an advertisement regardless of whether the

1 person initiating the telecommunication resides in this
2 Commonwealth or the telecommunication is initiated in this
3 Commonwealth, if the person who initiates the telecommunication
4 knows or with reasonable diligence should know that the
5 recipient of the advertisement or a service provider storing or
6 transferring the advertisement is a resident of this
7 Commonwealth.

8 (b) Venue.--In addition to venue otherwise provided by law,
9 an action under this act may be brought in the county in which:

10 (1) the plaintiff resides; or

11 (2) the telecommunication is initiated.

12 Section 7. Providing false information on point of origin or
13 routing.

14 (a) General rule.--A person commits an offense if the person
15 initiates a telecommunication for the delivery of an
16 advertisement that contains false information as to the point of
17 origin or routing of the telecommunication.

18 (b) Criminal penalty.--An offense under subsection (a) is a
19 misdemeanor of the second degree, except that if the offense is
20 committed knowingly, the offense is a misdemeanor of the first
21 degree.

22 Section 8. Effective date.

23 This act shall take effect in 60 days.