

1 AN ACT concerning electronic mail.

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  
5 changing Section 10 as follows:

6 (815 ILCS 511/10)

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

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

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

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

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

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

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

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

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

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

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

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

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