



HOUSE BILL No. 5850

May 30, 2000, Introduced by Reps. DeHart, Schermesser and Bovin and referred to the Committee on Energy and Technology.

A bill to regulate unsolicited electronic mail advertisement; to prescribe the powers and duties of certain state agencies and officials; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Electronic mail advertisement" means an electronic mail
3 message that directly or indirectly promotes the sale or distri-
4 bution of a good or service to the recipient of the message.

5 (b) "Computer network service provider" or "provider" means
6 a supplier of the technology that enables a registered user to
7 send or receive electronic mail through equipment located within
8 this state.

9 (c) "Initiator" means a person who actually initiates the
10 sending of unsolicited electronic mail advertisement to a
11 registered user.

1 (d) "Person" means an individual, corporation, partnership,
2 association, or any other legal entity.

3 (e) "Registered user" means a person who maintains in this
4 state an electronic mail address with a computer network service
5 provider.

6 (f) "Unsolicited electronic mail advertisement" means an
7 electronic mail advertisement that is both of the following:

8 (i) Addressed to a recipient with whom the initiator does
9 not have an existing business or personal relationship.

10 (ii) Sent to a registered user without that registered
11 user's consent or request.

12 Sec. 2. (1) A computer network service provider shall
13 establish procedures that restrict or limit the use of its equip-
14 ment in this state to deliver unsolicited electronic mail adver-
15 tisement to a registered user in this state without the consent
16 of the user.

17 (2) The computer network service provider shall submit to
18 the department of attorney general, for the attorney general's
19 review and approval, the procedures established under subsection
20 (1).

21 (3) The attorney general shall review and approve the proce-
22 dures submitted under subsection (2) upon a determination that
23 the policy adequately protects registered users in this state
24 from receiving unsolicited electronic mail.

25 (4) The attorney general may promulgate rules under the
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
27 24.328, to implement this act.

1 Sec. 3. A person shall not use or cause to be used a
2 computer network service provider's equipment to deliver an unso-
3 licited electronic mail advertisement to a registered user in
4 this state if that delivery violates the procedures established
5 by the provider and approved by the attorney general under this
6 act.

7 Sec. 4. (1) Subject to section 5, if a person violates a
8 procedure approved by the attorney general under this act, the
9 attorney general may bring a civil action to recover from that
10 person \$50.00 for each electronic mail advertisement delivered in
11 violation of the procedure, up to a total of \$25,000.00 per day
12 of the violations.

13 (2) The remedies available under this section are in addi-
14 tion to any other remedy available under law.

15 Sec. 5. To recover damages under section 4, the attorney
16 general shall establish, by a preponderance of the evidence, that
17 the defendant had notice of both of the following:

18 (a) The computer network service provider's procedure
19 regarding unsolicited electronic mail advertising approved by the
20 attorney general under this act.

21 (b) That the defendant's unsolicited electronic mail adver-
22 tising would use the computer network service provider's equip-
23 ment located in this state in violation of the procedure.