

SENATE, No. 333

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator MARTIN

1 AN ACT concerning the transmittal of certain information over
2 telephone lines and supplementing chapter 17 of Title 48 of the
3 Revised Statutes.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. A person shall not use any telephone facsimile machine,
9 computer or other device to send an unsolicited message to a
10 telephone facsimile machine.

11 For purposes of this section:

12 "Telephone facsimile machine" means equipment which has the
13 capacity to transcribe text or images, or both, from paper into an
14 electronic signal and to transmit that signal over a regular telephone
15 line or to transcribe text or images, or both, from an electronic signal
16 received over a regular telephone line onto paper.

17 "Unsolicited message" means a message not requested or expected
18 by the recipient whose telephone facsimile machine, computer or other
19 device receives the message. "Unsolicited message" shall include, but
20 not be limited to, advertising, sales offers, promotional and other
21 unrequested messages sent by a person, firm or organization such that
22 a response to the message could lead to pecuniary gain by the sender.
23 "Unsolicited message" shall not include a message transmitted: in the
24 course of prior negotiations; to a recipient with whom the sender has
25 a current or prior business relationship; or in the course of a follow-up
26 to a sales call, sales lead or other prior business-related contact.

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28 2. Any person aggrieved by a violation of this act may bring an
29 action in the Superior Court, Special Civil Part, Small Claims Division
30 in the county where the transmission was received, to enjoin further
31 violations and to recover the actual damages sustained by reason of
32 such violation, including costs and reasonable attorneys fees, or an
33 amount not to exceed \$100 for each occurrence, whichever is greater.
34 In addition to the remedies provided above, if the receiver of an
35 unsolicited message has, by return facsimile or other reasonable means

1 of communication, ordered the sender to cease and desist transmission
2 of unsolicited messages, the receiver may seek damages for unsolicited
3 messages transmitted subsequent to that order in an amount not to
4 exceed \$1,000 for each occurrence. The penalty shall be collected and
5 enforced in a summary proceeding pursuant to "the penalty
6 enforcement law," N.J.S.2A:58-1 et seq.

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8 3. This act shall take effect on the first day of the third month
9 following enactment.

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12 STATEMENT

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14 This bill would prohibit the sending of unsolicited "fax"
15 transmissions. Since there are costs associated with receiving a fax
16 transmission, this bill would prohibit the use of any telephone facsimile
17 machine, computer or other device to send an unsolicited message to
18 a telephone facsimile machine.

19 The bill defines an unsolicited message as a message not requested
20 or expected by the recipient, including but not limited to advertising,
21 sales offers, promotional and other unrequested messages sent by a
22 person, firm or organization not engaged in transactions or discussions
23 with the person whose telephone facsimile machine, computer or other
24 device receives the message.

25 A person violating the provisions of the act would be subject to a
26 penalty of \$500 and would be liable for any costs associated with
27 sending an unsolicited message to a telephone facsimile machine.

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32 Prohibits transmission of unsolicited faxes.