

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1957

5 By: Representative S. Meeks
6
7

For An Act To Be Entitled

8
9 AN ACT TO AMEND THE UNSOLICITED COMMERCIAL AND
10 SEXUALLY EXPLICIT ELECTRONIC MAIL PREVENTION ACT TO
11 INCLUDE UNSOLICITED COMMERCIAL AND SEXUALLY EXPLICIT
12 TEXT MESSAGES; AND FOR OTHER PURPOSES.
13
14

Subtitle

15
16 TO AMEND THE UNSOLICITED COMMERCIAL AND
17 SEXUALLY EXPLICIT ELECTRONIC MAIL
18 PREVENTION ACT TO INCLUDE UNSOLICITED
19 COMMERCIAL AND SEXUALLY EXPLICIT TEXT
20 MESSAGES.
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 4-88-601 is amended to read as follows:
25 4-88-601. Title.

26 This subchapter may be referred to and cited as the "Unsolicited
27 Commercial and Sexually Explicit Electronic Mail and Text Message Prevention
28 Act".
29

30 SECTION 2. Arkansas Code § 4-88-602(10)(A)(i), concerning the
31 definition of "preexisting business relationship" under the Unsolicited
32 Commercial and Sexually Explicit Electronic Mail Prevention Act, is amended
33 to read as follows:

34 (10)(A)(i) "Preexisting business relationship" means that there
35 was a business transaction or communication between the sender and the
36 recipient of a commercial electronic mail or text message during the five-



1 year period preceding the receipt of that message.

2
 3 SECTION 3. Arkansas Code § 4-88-602(12), concerning the definition of
 4 "unsolicited" under the Unsolicited Commercial and Sexually Explicit
 5 Electronic Mail Prevention Act, is amended to read as follows:

6 (12) "Unsolicited" means without the recipient's express
 7 permission, except that commercial electronic mail or text message is not
 8 unsolicited if the sender has a preexisting business or personal relationship
 9 with the recipient.

10
 11 SECTION 4. Arkansas Code § 4-88-602, concerning definitions under the
 12 Unsolicited Commercial and Sexually Explicit Electronic Mail Prevention Act,
 13 is amended to add additional subdivisions to read as follows:

14 (13) "Phone service provider" means a person who:

15 (A) Is an intermediary in the transmission of a text
 16 message from the sender to the recipient; or

17 (B) Provides to end users of text message services via a
 18 telephone number the ability to send and receive text messages;

19 (14) "Text message" means a message consisting of text, images,
 20 sounds, or other information that is transmitted to or from a device that is
 21 identified as the receiving or transmitting device by means of a ten (10)
 22 digit telephone number;

23
 24 SECTION 5. Arkansas Code § 4-88-603 is amended to read as follows:

25 4-88-603. Unsolicited commercial or sexually explicit electronic mail
 26 or text message – Requirements.

27 (a) Each person who sends or causes to be sent an unsolicited
 28 commercial electronic mail or text message or an unsolicited sexually
 29 explicit electronic mail or text message through the intermediary of an
 30 electronic mail service provider or to an electronic mail address or phone
 31 number held by a resident of the state shall:

32 (1)(A) ~~Conspicuously~~ For a commercial message to an electronic
 33 mail address, conspicuously state in the electronic mail the sender's:

34 ~~(A)(i)~~ (i) Legal name;

35 ~~(B)(ii)~~ (ii) Correct street address; and

36 ~~(C)(iii)~~ (iii) Valid internet domain name; and

1 (B) For a commercial text message, conspicuously state
2 the:

3 (i) Person from whom the text message originates;
4 (ii) Purpose of the text message; and
5 (iii) Ability to opt out and method of opting out of
6 receiving further text messages from the person;

7 (2) For a sexually explicit electronic mail, include in the
8 electronic mail a subject line that contains “adv:adult” as the first nine
9 (9) characters;

10 (3) Provide the recipient a convenient, no-cost mechanism to
11 notify the sender not to send any future electronic mail to the recipient,
12 including:

13 (A) Return electronic mail to a valid, functioning return
14 electronic address; and

15 (B) For a sexually explicit electronic mail and if the sender
16 has a toll-free telephone number, the sender’s toll-free telephone number;
17 and

18 (4) Conspicuously provide in the text of the electronic mail a
19 notice:

20 (A) That informs the recipient that the recipient may
21 conveniently and at no cost be excluded from future commercial or sexually
22 explicit electronic mail, as the case may be, from the sender; and

23 (B) For sexually explicit electronic mail, if the sender has
24 a toll-free telephone number, that includes the sender’s valid, toll-free
25 telephone number that the recipient may call to be excluded from future
26 electronic mail from the sender.

27 (b)(1) A commercial electronic mail or text message is not unsolicited
28 if the sender has a preexisting business or personal relationship with the
29 recipient.

30 (2) The sender of a commercial electronic mail or text message
31 of this nature must still include in the electronic mail message or text
32 message the required disclosures set forth in subdivisions (a)(3) and (4) of
33 this section and shall remove the recipient from future mailings or text
34 messages if requested.

35 (c) A person who sends or causes to be sent an unsolicited commercial
36 electronic mail or an unsolicited sexually explicit electronic mail through

1 the intermediary of an electronic mail service provider located in the state
 2 or to an electronic mail address held by a resident of the state ~~may~~ shall
 3 not:

4 (1) Use a third party's internet domain name in identifying the
 5 point of origin or in stating the transmission path of the electronic mail
 6 without the third party's consent;

7 (2) Misrepresent any information in identifying the point of
 8 origin or the transmission path of the electronic mail; or

9 (3) Fail to include in the electronic mail the information
 10 necessary to identify the point of origin of the electronic mail.

11 (d)(1) If the recipient of an unsolicited commercial electronic mail
 12 or text message or an unsolicited sexually explicit electronic mail or text
 13 message notifies the sender that the recipient does not want to receive
 14 future commercial electronic mail or text message or future sexually explicit
 15 electronic mail or text message from the sender, the sender may not send that
 16 recipient a commercial electronic mail or text message or a sexually explicit
 17 electronic mail or text message either directly or through a subsidiary or
 18 affiliate.

19 (2) If a recipient has requested to be removed from future
 20 mailings or text messages, the sender may recontact the recipient if a
 21 preexisting business relationship has been reestablished or if the recipient
 22 has expressly requested to receive future mailings or text messages from the
 23 sender.

24

25 SECTION 6. Arkansas Code § 4-88-604 is amended to read as follows:

26 4-88-604. Interactive computer service, ~~and~~ electronic mail service
 27 provider, and phone service provider authority.

28 (a) An interactive computer service, ~~or~~ electronic mail service
 29 provider, or phone service provider may block the receipt or transmission
 30 through its service of any bulk electronic mail or text message that it
 31 reasonably believes is or will be sent in violation of this subchapter.

32 (b) An interactive computer service, ~~or~~ electronic mail service
 33 provider, or phone service provider is not:

34 (1) In violation of this section and the injured party shall not
 35 have a cause of action against an interactive computer service, ~~or~~ electronic
 36 mail service provider, or phone service provider due to the fact that the

1 interactive computer service, ~~or~~ electronic mail service provider, or phone
2 service provider:

3 (A) Is an intermediary between the sender and recipient in
4 the transmission of an electronic mail or text message that violates this
5 section; or

6 (B) Provides transmission of unsolicited commercial
7 electronic mail messages or text messages over the provider's computer
8 network or facilities; or

9 (2) Liable for any action it voluntarily takes in good faith to
10 block the receipt or transmission through its service of any electronic mail
11 or text message advertisements that it believes is or will be sent in
12 violation of this subchapter.

13 (c) An interactive computer service may disconnect or terminate the
14 service of any person who is in violation of this subchapter.

15

16 SECTION 7. Arkansas Code § 4-88-606 is amended to read as follows:

17 4-88-606. Civil action for violation – Election on damages – Costs and
18 attorney's fees – Defense.

19 (a) For any violation of a provision of this subchapter, an action may
20 be brought by:

21 (1) A person who received the unsolicited commercial electronic
22 mail or text message or unsolicited sexually explicit electronic mail or text
23 message that violates this subchapter; or

24 (2) An electronic mail service provider or phone service
25 provider through whose facilities the unsolicited commercial electronic mail
26 or text message or unsolicited sexually explicit electronic mail or text
27 message was transmitted.

28 (b)(1) In each action under subdivision (a)(1) of this section, a
29 recipient or electronic mail service provider or phone service provider may
30 elect, in lieu of actual damages, to recover the lesser of:

31 (A) Ten dollars (\$10.00) per unsolicited commercial
32 electronic mail or text message or unsolicited sexually explicit electronic
33 mail or text message sent to a previously opted-out electronic mail address
34 or phone number or transmitted through the electronic mail service provider
35 or phone service provider or otherwise sent in violation of this subchapter;
36 or

1 (B) Twenty-five thousand dollars (\$25,000) per day the
2 violation occurs.

3 (2) Each prevailing recipient or electronic mail service
4 provider or phone service provider shall be awarded costs and reasonable
5 attorney's fees.

6 (c) It is an affirmative defense to a violation of this subchapter if
7 a person can demonstrate that the sender at the time of the alleged violation
8 had:

9 (1) Maintained a list of consumers who have notified the person
10 not to send any subsequent commercial electronic messages or text messages;

11 (2) Established and implemented with due care and reasonable
12 practices and procedures to effectively prevent unsolicited commercial
13 electronic mail messages or text messages in violation of this subchapter;

14 (3) Trained the sender's personnel in the requirements of this
15 subchapter; and

16 (4) Maintained records demonstrating compliance with this
17 subchapter.

18
19 SECTION 8. Arkansas Code § 4-88-607(a)(1), concerning the transmission
20 of unsolicited commercial or sexually explicit electronic mail being
21 considered an unfair and deceptive act or practice, is amended to read as
22 follows:

23 (a)(1) Any transmission of unsolicited commercial or sexually explicit
24 electronic mail or text message in violation of this subchapter shall
25 constitute an unfair and deceptive act or practice under § 4-88-107.

26
27
28
29
30
31
32
33
34
35
36