

2A:65D-1 TO 2A:65D-5
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2015 **CHAPTER:** 119

NJSA: 2A:65D-1 TO 2A:65D-5 (Prohibits sending unsolicited advertising by text messaging, and requires companies offering text messaging services to allow customers to block all incoming and outgoing text messages.)

BILL NO: A617 (Substituted for S1357 (1R))

SPONSOR(S) Moriarty, Paul D., and others

DATE INTRODUCED: January 16, 2014

COMMITTEE: **ASSEMBLY:** Consumer Affairs

SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 12/18/2014

SENATE: 10/22/2015

DATE OF APPROVAL: October 26, 2015

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

A617

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1357 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

end

Title 2A.
Subtitle 6A.
Chapter 65D
(New)
Unsolicited
Communications
§§1-5 -
C.2A:65D-1 to
2A:65D-5
§6 - Note

P.L.2015, CHAPTER 119, *approved October 26, 2015*
Assembly, No. 617 (*Second Reprint*)

1 AN ACT concerning the sending of unsolicited advertising by text
2 messaging and the blocking of text messaging and supplementing
3 ²[P.L.1960, c.39 (C.56:8-1 et seq.)] Title 2A of the New Jersey
4 Statutes².

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

8
9 1. As used in this act:

10 "Communication device capable of receiving text messaging"
11 means a cellular telephone, a device for paging or message services,
12 a personal digital assistant, or any other wireless telecommunication
13 device or technology for short messaging services which receives
14 text messages.

15 "Text messaging" means the wireless transmission of ¹[short
16 messages of]¹ text ¹, images or a combination of text and images¹
17 by means of a cellular telephone, a paging or message service, a
18 personal digital assistant or ¹[similar telecommunications
19 technology] any other electronic communications device¹.

20 "Unsolicited advertisement" means any message sent without the
21 prior permission of the recipient to encourage the purchase or rental
22 of, or investment in, merchandise as that term is defined in
23 subsection (c) of section 1 of P.L.1960, c.39 (C.56:8-1).
24

25 2. No person shall send or cause to be sent to a resident of this
26 State an unsolicited advertisement by means of text messaging to a
27 communication device capable of receiving text messaging if the
28 recipient of the message may incur a telecommunications charge or
29 a usage allocation deduction as a result of the message being sent.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACO committee amendments adopted June 5, 2014.

²Assembly amendments adopted in accordance with Governor's
recommendations November 13, 2014.

1 3. ¹**[**Prior permission of the recipient to send an advertisement
2 by means of text messaging**]** No person may send an unsolicited
3 advertisement by means of text messaging without first receiving
4 permission from the intended recipient. Permission¹ may be
5 granted only with prior express ¹**[**permission**]** authorization from
6 the intended recipient¹ that includes the number to which the text
7 message advertisement may be sent. The permission may be
8 revoked at any time with a request that includes the number for
9 which permission is being revoked.

10
11 4. No telecommunications company shall sell, or offer to sell,
12 text messaging services to customers in this State unless the
13 company offers an option to such customers to block all incoming
14 and outgoing text messages ²that result in telecommunications
15 charges or usage allocation deductions²; provided, however, the
16 telecommunications company may continue to send text messages
17 to customers concerning their existing accounts if the customer will
18 not incur a telecommunications charge or a usage allocation
19 deduction as a result of the message being sent.

20
21 ²**[**5. A violation of this act shall be an unlawful practice subject
22 to the penalties applicable pursuant to section 1 of P.L.1966, c.39
23 (C.56:8-13) and section 2 of P.L.1999, c.129 (C.56:8-14.3), except
24 that a person may not be held liable for a violation of section 2 of
25 this act if ¹the person demonstrates by clear and convincing
26 evidence that¹ any unsolicited advertisement sent by text messaging
27 was an isolated message sent no more than one time in a 12-month
28 period.**]**²

29
30 ²5. a. A person who violates this act shall be subject to a civil
31 penalty in an amount not to exceed \$500 for the first violation and
32 \$1,000 for each subsequent violation, collectible by the Attorney
33 General in a summary proceeding pursuant to the "Penalty
34 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

35 b. Nothing set forth in this act shall be construed as creating,
36 establishing or authorizing a private cause of action by an aggrieved
37 person against a person who has violated, or is alleged to have
38 violated, the provisions of this act.²

39
40 ²**[**6. The Division of Consumer Affairs in the Department of Law
41 and Public Safety, pursuant to the provisions of the "Administrative
42 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
43 promulgate rules and regulations necessary to implement this act.**]**²

44
45 ²**[**7.**]** 6.² This act shall take effect on the first day of the
46 thirteenth month following enactment ²**[**, except that the Division

1 of Consumer Affairs may take such action in advance of the
2 effective date as shall be necessary to implement the provisions of
3 the act².

4

5

6

7

8 Prohibits sending unsolicited advertising by text messaging, and
9 requires companies offering text messaging services to allow
10 customers to block all incoming and outgoing text messages.

ASSEMBLY, No. 617

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

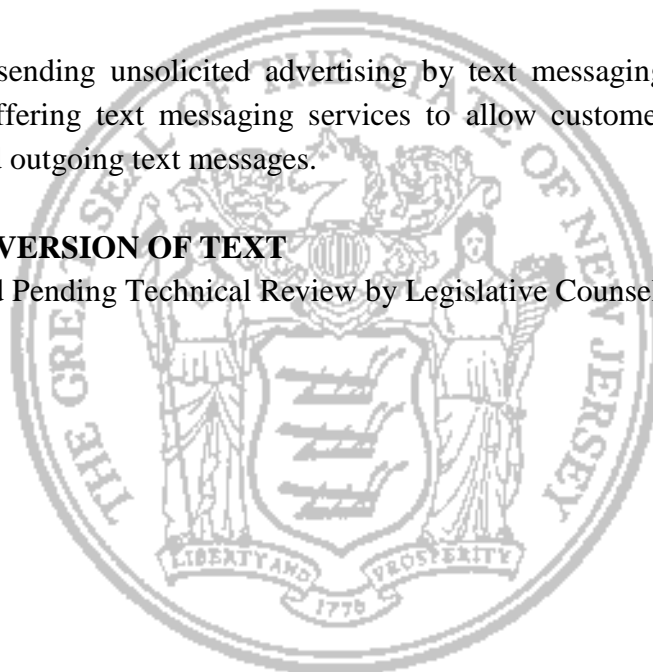
Assemblymen Burzichelli, Prieto, Assemblywoman Lampitt, Assemblymen Greenwald, Conaway, Rumpf, Gusciora, Diegnan, Chivukula, Wisniewski, Schaer, C.J.Brown, Assemblywoman Mosquera, Assemblyman Lagana and Assemblywoman Jimenez

SYNOPSIS

Prohibits sending unsolicited advertising by text messaging, and requires companies offering text messaging services to allow customers to block all incoming and outgoing text messages.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 6/6/2014)

A617 MORIARTY, BRAMNICK

2

1 AN ACT concerning the sending of unsolicited advertising by text
2 messaging and the blocking of text messaging and supplementing
3 P.L.1960, c.39 (C.56:8-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. As used in this act:

9 "Communication device capable of receiving text messaging"
10 means a cellular telephone, a device for paging or message services,
11 a personal digital assistant, or any other wireless telecommunication
12 device or technology for short messaging services which receives
13 text messages.

14 "Text messaging" means the wireless transmission of short
15 messages of text by means of a cellular telephone, a paging or
16 message service, a personal digital assistant or similar
17 telecommunications technology.

18 "Unsolicited advertisement" means any message sent without the
19 prior permission of the recipient to encourage the purchase or rental
20 of, or investment in, merchandise as that term is defined in
21 subsection (c) of section 1 of P.L.1960, c.39 (C.56:8-1).
22

23 2. No person shall send or cause to be sent to a resident of this
24 State an unsolicited advertisement by means of text messaging to a
25 communication device capable of receiving text messaging if the
26 recipient of the message may incur a telecommunications charge or
27 a usage allocation deduction as a result of the message being sent.
28

29 3. Prior permission of the recipient to send an advertisement by
30 means of text messaging may be granted only with prior express
31 permission that includes the number to which the text message
32 advertisement may be sent. The permission may be revoked at any
33 time with a request that includes the number for which permission
34 is being revoked.
35

36 4. No telecommunications company shall sell, or offer to sell,
37 text messaging services to customers in this State unless the
38 company offers an option to such customers to block all incoming
39 and outgoing text messages; provided, however, the
40 telecommunications company may continue to send text messages
41 to customers concerning their existing accounts if the customer will
42 not incur a telecommunications charge or a usage allocation
43 deduction as a result of the message being sent.
44

45 5. A violation of this act shall be an unlawful practice subject
46 to the penalties applicable pursuant to section 1 of P.L.1966, c.39
47 (C.56:8-13) and section 2 of P.L.1999, c.129 (C.56:8-14.3), except
48 that a person may not be held liable for a violation of section 2 of

1 this act if any unsolicited advertisement sent by text messaging was
2 an isolated message sent no more than one time in a 12-month
3 period.

4
5 6. The Division of Consumer Affairs in the Department of Law
6 and Public Safety, pursuant to the provisions of the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
8 promulgate rules and regulations necessary to implement this act.

9
10 7. This act shall take effect on the first day of the thirteenth
11 month following enactment, except that the Division of Consumer
12 Affairs may take such action in advance of the effective date as
13 shall be necessary to implement the provisions of the act.

14
15
16 STATEMENT

17
18 This bill prohibits the sending of an unsolicited advertisement by
19 means of a text message to a resident of New Jersey if it may cause
20 the recipient to incur a telecommunications charge or a usage
21 allocation deduction. Text messaging is the wireless transmission of
22 short messages of text by means of a cellular telephone, a paging or
23 message service, a personal digital assistant, or similar
24 telecommunications technology.

25 For purposes of this bill, an unsolicited advertisement means any
26 message sent, without the prior permission of the recipient, to
27 encourage the purchase or rental of, or investment in, merchandise
28 or services. The bill requires the recipient's express permission,
29 including the number to which text message advertisements may be
30 sent, before any such advertisements may be sent.

31 In addition, the bill requires any telecommunications company
32 that sells, or offers to sell, text messaging services to offer an option
33 allowing customers to block all incoming and outgoing text
34 messages. Under the bill, the telecommunications company may
35 continue to send customers text messages concerning their existing
36 accounts, if the customer will not incur a telecommunications
37 charge or a usage allocation deduction as a result of the message
38 being sent.

39 A violation of the provisions of the bill constitutes an unlawful
40 practice. An unlawful practice under the Consumer Fraud Act is
41 punishable by a monetary penalty of not more than \$10,000 for a
42 first offense and not more than \$20,000 for any subsequent offense.
43 In addition, violations can result in cease and desist orders issued
44 by the Attorney General, the assessment of punitive damages and
45 the awarding of treble damages and costs to the injured party.

46 Under the provisions of the bill, a person may not be held liable
47 for a violation if any unsolicited advertisement sent by text

A617 MORIARTY, BRAMNICK

4

- 1 messaging was an isolated message sent no more than one time in a
- 2 12-month period.

ASSEMBLY CONSUMER AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 617

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 5, 2014

The Assembly Consumer Affairs Committee reports favorably and with committee amendments Assembly Bill No. 617.

This bill prohibits the sending of an unsolicited advertisement by means of a text message to a resident of New Jersey if it may cause the recipient to incur a telecommunications charge or a usage allocation deduction. As amended by the committee, text messaging is defined as the wireless transmission of text, images, or a combination of text and images by means of a cellular telephone, a paging or message service, a personal digital assistant, or other electronic communications device.

For purposes of this bill, an unsolicited advertisement means any message sent, without the prior permission of the recipient, to encourage the purchase or rental of, or investment in, merchandise or services. The bill requires the recipient's express permission, including the number to which text message advertisements may be sent, before any unsolicited advertisements may be sent.

Additionally, the bill requires any telecommunications company that sells, or offers to sell, text messaging services to offer an option allowing customers to block all incoming and outgoing text messages. Under the bill, the telecommunications company may continue to send customers text messages concerning their existing accounts, if the customer will not incur a telecommunications charge or a usage allocation deduction as a result of the message being sent.

A violation of the provisions of the bill constitutes an unlawful practice under the consumer fraud act. An unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. Additionally, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

Under the provisions of the bill, as amended, a person may not be held liable for a violation if the person demonstrates by clear and convincing evidence that any unsolicited advertisement sent by text messaging was an isolated message sent no more than one time in a 12-month period.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to define “text messaging” as the wireless transmission of text, images, or a combination of text and images by means of a cellular telephone, a paging or message service, a personal digital assistant, or other electronic communications device. The committee amendments clarify that no person may send an unsolicited advertisement by means of text messaging without first receiving permission from the intended recipient. Finally, the committee amendments provide that a person may not be held liable for a violation of the provisions of the bill only if the person demonstrates by clear and convincing evidence that any unsolicited advertisement sent was an isolated message sent no more than one time in a 12-month period.

SENATE COMMERCE COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 617

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 2014

The Senate Commerce Committee reports favorably Assembly Bill No. 617 (1R).

This bill prohibits the sending of an unsolicited advertisement by means of a text message to a resident of New Jersey if it may cause the recipient to incur a telecommunications charge or a usage allocation deduction. The bill defines text messaging as the wireless transmission of text, images, or a combination of text and images by means of a cellular telephone, a paging or message service, a personal digital assistant, or other electronic communications device.

For purposes of this bill, an unsolicited advertisement means any message sent, without the prior permission of the recipient, to encourage the purchase or rental of, or investment in, merchandise or services. The bill requires the recipient's express permission, including the number to which text message advertisements may be sent, before any unsolicited advertisements may be sent.

Additionally, the bill requires any telecommunications company that sells, or offers to sell, text messaging services to offer an option allowing customers to block all incoming and outgoing text messages. Under the bill, the telecommunications company may continue to send customers text messages concerning their existing accounts, if the customer will not incur a telecommunications charge or a usage allocation deduction as a result of the message being sent.

A violation of the provisions of the bill constitutes an unlawful practice under the consumer fraud act. An unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. Additionally, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

Under the provisions of the bill a person may not be held liable for a violation if the person demonstrates by clear and convincing evidence that any unsolicited advertisement sent by text messaging was an isolated message sent no more than one time in a 12-month period.

SENATE, No. 1357

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Prohibits sending unsolicited advertising by text messaging, and requires companies offering text messaging services to allow their customers to block all incoming and outgoing text messages.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/16/2014)

1 AN ACT concerning the sending of unsolicited advertising by text
2 messaging and the blocking of text messaging and supplementing
3 P.L.1960, c.39 (C.56:8-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. As used in this act:

9 "Communication device capable of receiving text messaging"
10 means a cellular telephone, a device for paging or message services,
11 a personal digital assistant, or any other wireless telecommunication
12 device or technology for short messaging services which receives
13 text messages.

14 "Text messaging" means the wireless transmission of short
15 messages of text by means of a cellular telephone, a paging or
16 message service, a personal digital assistant or similar
17 telecommunications technology.

18 "Unsolicited advertisement" means any message sent without the
19 prior permission of the recipient to encourage the purchase or rental
20 of, or investment in, merchandise as that term is defined in
21 subsection (c) of section 1 of P.L.1960, c.39 (C.56:8-1).
22

23 2. No person shall send or cause to be sent to a resident of this
24 State an unsolicited advertisement by means of text messaging to a
25 communication device capable of receiving text messaging if the
26 recipient of the message will incur a telecommunications charge or
27 a usage allocation deduction as a result of the message being sent.
28

29 3. Prior permission of the recipient to send an advertisement by
30 means of text messaging may be granted only with prior express
31 permission that includes the number to which the text message
32 advertisement may be sent. The permission may be revoked at any
33 time with a request that includes the number for which permission
34 is being revoked.
35

36 4. No telecommunications company shall sell or offer to sell
37 text messaging services to customers in this State unless the
38 company offers an option to such customers to block all incoming
39 and outgoing text messages.
40

41 5. A violation of this act shall be an unlawful practice subject
42 to the penalties applicable pursuant to section 1 of P.L.1966, c.39
43 (C.56:8-13) and section 2 of P.L.1999, c.129 (C.56:8-14.3), except
44 that a person may not be held liable for a violation of section 2 of
45 this act if any unsolicited advertisement sent by text messaging was
46 an isolated message sent no more than one time in a 12-month
47 period.

1 6. The Division of Consumer Affairs in the Department of Law
2 and Public Safety, pursuant to the provisions of the "Administrative
3 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
4 promulgate rules and regulations necessary to implement this act.

5
6 7. This act shall take effect on the first day of the thirteenth
7 month following enactment, except that the Division of Consumer
8 Affairs may take such action in advance of the effective date as
9 shall be necessary to implement the provisions of the act.

10

11

12

STATEMENT

13

14 This bill prohibits the sending of an unsolicited advertisement by
15 text messaging to a resident of New Jersey if it will cause the
16 recipient to incur a telecommunications charge or a usage allocation
17 deduction. Text messaging is the wireless transmission of short
18 messages of text by means of a cellular telephone, a paging or
19 message service, a personal digital assistant or similar
20 telecommunications technology.

21 For purposes of this bill, an unsolicited advertisement means any
22 message sent without the prior permission of the recipient to
23 encourage the purchase or rental of, or investment in, merchandise,
24 which, by definition, includes services. The bill provides that prior
25 permission of the recipient to send an advertisement by means of
26 text messaging may be granted only by the recipient's prior express
27 permission, which includes the number to which the text message
28 advertisement may be sent.

29 The bill also requires any telecommunications company that sells
30 or offers to sell text messaging services to offer an option allowing
31 customers to block all incoming and outgoing text messages.

32 Any violation of the bill constitutes an unlawful practice subject
33 to the monetary penalties of the consumer fraud act, P.L.1960, c.39
34 (C.56:8-1 et seq.). These penalties include a payment of not more
35 than \$10,000 for the first offense and not more than \$20,000 for the
36 second and any subsequent offense, and additional payments of as
37 much as \$30,000 if the violator knew or should have known the
38 victim is a senior citizen or person with a disability. See P.L.1966,
39 c.39, s.1 (C.56:8-13) and P.L.1999, c.129, s.2 (C.56:8-14.3). A
40 person may not be held liable for a violation if any unsolicited
41 advertisement sent by text messaging was an isolated message sent
42 no more than one time in a 12-month period.

43 The bill would be enforced by the Division of Consumer Affairs
44 in the Department of Law and Public Safety and the penalties would
45 be in accordance with the violation provisions of the Consumer
46 Fraud Act. A person would not be held liable for a violation if any
47 unsolicited advertisement sent by text messaging was an isolated
48 message sent no more than one time in a 12-month period.

S1357 VAN DREW, SCUTARI

4

- 1 The bill would take effect on the first day of the thirteenth month
- 2 following enactment.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1357

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 2014

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1357.

This bill, as amended, prohibits the sending of an unsolicited advertisement by means of a text message to a resident of New Jersey if it may cause the recipient to incur a telecommunications charge or a usage allocation deduction. The bill defines text messaging as the wireless transmission of text, images, or a combination of text and images by means of a cellular telephone, a paging or message service, a personal digital assistant, or other electronic communications device.

For purposes of this bill, an unsolicited advertisement means any message sent, without the prior permission of the recipient, to encourage the purchase or rental of, or investment in, merchandise or services. The bill requires the recipient's express permission, including the number to which text message advertisements may be sent, before any unsolicited advertisements may be sent.

Additionally, the bill requires any telecommunications company that sells, or offers to sell, text messaging services to offer an option allowing customers to block all incoming and outgoing text messages. Under the bill, the telecommunications company may continue to send customers text messages concerning their existing accounts, if the customer will not incur a telecommunications charge or a usage allocation deduction as a result of the message being sent.

A violation of the provisions of the bill constitutes an unlawful practice under the consumer fraud act. An unlawful practice is punishable by a monetary penalty of not more than \$10,000 for a first offense and not more than \$20,000 for any subsequent offense. Additionally, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages and the awarding of treble damages and costs to the injured party.

Under the provisions of the bill a person may not be held liable for a violation if the person demonstrates by clear and convincing evidence that any unsolicited advertisement sent by text messaging was an isolated message sent no more than one time in a 12-month period.

As amended and reported, this bill is identical to Assembly Bill No. 617(1R), as reported by the committee.

Committee Amendments

The committee amendments:

- define “text messaging” as the wireless transmission of text, images, or a combination of text and images by means of a cellular telephone, a paging or message service, a personal digital assistant, or other electronic communications device.

- clarify that no person may send an unsolicited advertisement by means of text messaging without first receiving permission from the intended recipient.

- provide that a person may not be held liable for a violation of the provisions of the bill if the person demonstrates by clear and convincing evidence that any unsolicited advertisement sent was an isolated message sent no more than one time in a 12-month period.

ASSEMBLY BILL NO. 617
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 617 (First Reprint) with my recommendations for reconsideration.

This bill prohibits the sending of an unsolicited advertisement by means of a text message to a resident of New Jersey if it may cause the recipient to incur a telecommunications charge or a usage allocation deduction. In addition, the bill requires any telecommunications company that sells, or offers to sell, text messaging services to offer an option allowing customers to block all incoming and outgoing text messages.

This bill's intent is laudatory, and cell phone customers should be able to avoid receiving unsolicited advertising text messages that result in unwarranted charges. However, this bill places its prohibitions within the Consumer Fraud Act, thereby triggering significant penalties normally reserved for fraudulent, not aggressive, business practices. Although we wish to discourage businesses from sending unsolicited text messages because they place unwarranted burdens on the consumer, it is important to note that such text messages are not automatically fraudulent or deceptive. Accordingly, I recommend placing the bill's prohibitions outside the Consumer Fraud Act and maintaining enforcement authority with the Attorney General.

Accordingly, I herewith return Assembly Bill No. 617 (First Reprint) and recommend that it be amended as follows:

<u>Page 2, Title, Line 3:</u>	Delete "P.L.1960, c.39 (C.56:8-1 et seq.)" and insert "Title 2A of the New Jersey Statutes"
-------------------------------	---

<u>Page 2, Section 4, Line 43:</u>	After "messages" insert "that result in telecommunications"
------------------------------------	---

charges or usage allocation deductions"

Page 3, Section 5, Lines 6-13:

Delete in their entirety

Page 3, Section 6, Lines 15-18:

Delete in their entirety

Page 3, Line 19:

Insert new section 5 to read as follows: "5. a. A person who violates this act shall be subject to a civil penalty in an amount not to exceed \$500 for the first violation and \$1,000 for each subsequent violation, collectible by the Attorney General in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

b. Nothing set forth in this act shall be construed as creating, establishing or authorizing a private cause of action by an aggrieved person against a person who has violated, or is alleged to have violated, the provisions of this act."

Page 3, Section 7, Line 20:

Delete "7." and insert "6."

Page 3, Section 7, Line 21:

Delete ", except that the Division of Consumer" and insert "."

Page 3, Section 7, Lines 22-23:

Delete in their entirety

[seal]

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor

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Trenton, NJ - Governor Chris Christie announced action that has been taken on the following legislation:

BILL SIGNING:

A-617wGR/S-1357 (Moriarty, Bramnick, Benson, Wimberly, Andrzejczak/Van Drew, Scutari) - Prohibits sending unsolicited advertising by text messaging, and requires companies offering text messaging services to allow customers to block all incoming and outgoing text messages

A-625wGR/S-1477 (Moriarty, Vainieri Huttle/Van Drew, Scutari) – Prohibits certain unsolicited checks

###

Press Contact:
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Nicole Sizemore
609-777-2600



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