

**2A:65D-6 & 2A:65D-7**  
**LEGISLATIVE HISTORY CHECKLIST**

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**LAWS OF:** 2015                    **CHAPTER:** 120

**NJSA:** 2A:65D-6 & 2A:65D-7 (Prohibits certain unsolicited checks.)

**BILL NO:** A625                    (Substituted for S1477)

**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** (First Reprint enacted)                    Yes

**A625**

**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](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:**                    No

**LEGISLATIVE FISCAL ESTIMATE:**                    No

**S1477**

**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](http://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

§§1&2 -  
C.2A:65D-6 &  
2A:65D-7  
§3 - Note

P.L.2015, CHAPTER 120, *approved October 26, 2015*  
Assembly, No. 625 (*First Reprint*)

1 AN ACT prohibiting certain unsolicited checks and supplementing  
2 <sup>1</sup>[P.L.1960, c.39 (C.56:8-1 et seq.)] Title 2A of the New Jersey  
3 Statutes<sup>1</sup>.  
4

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

8 1. <sup>1</sup>[It shall be an unlawful practice for a] No<sup>1</sup> person <sup>1</sup>[to]  
9 shall<sup>1</sup> send an unsolicited check to an individual which, upon being  
10 cashed or redeemed, automatically obligates the recipient to pay  
11 any fee or enrolls that individual in any club, service, plan, or  
12 continuing agreement.

13 For the purposes of this act, an "unsolicited check" means any  
14 check mailed or otherwise delivered to a person, other than:

15 a. In response to a request or application for a check or account  
16 by the person;

17 b. As a substitute for a check or account previously issued to  
18 the person to whom the check is mailed or otherwise delivered; or

19 c. A check related to a consumer credit transaction or  
20 consumer loan business issued or provided by an insured depository  
21 institution as defined in 12 U.S.C. s.1813, a licensee under the New  
22 Jersey Consumer Finance Licensing Act, sections 1 through 49 of  
23 P.L.1996, c.157 (C.17:11c-1 et seq.), or other financial institution  
24 authorized to do business by the New Jersey Department of  
25 Banking and Insurance.  
26

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

33 b. Nothing set forth in P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) shall be construed as creating, establishing  
35 or authorizing a private cause of action by an aggrieved person  
36 against a person who has violated, or is alleged to have violated, the

**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:

<sup>1</sup>Assembly amendments adopted in accordance with Governor's  
recommendations November 13, 2014.

1 provisions of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill).<sup>1</sup>

3

4 <sup>1</sup>**[2.] 3.**<sup>1</sup> This act shall take effect on the first day of the third  
5 month next following enactment.

6

7

8

9

10 Prohibits certain unsolicited checks.

# ASSEMBLY, No. 625

## 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)**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblyman McKeon, Assemblywomen Lampitt, Riley, Assemblyman  
Conaway, Assemblywoman Mosquera and Assemblyman Coughlin**

**SYNOPSIS**

Prohibits certain unsolicited checks.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT prohibiting certain unsolicited checks and supplementing  
2 P.L.1960, c.39 (C.56:8-1 et seq.).

3

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

6

7 1. It shall be an unlawful practice for a person to send an  
8 unsolicited check to an individual which, upon being cashed or  
9 redeemed, automatically obligates the recipient to pay any fee or  
10 enrolls that individual in any club, service, plan, or continuing  
11 agreement.

12 For the purposes of this act, "unsolicited check" means any  
13 check mailed or otherwise delivered to a person, other than:

14 a. In response to a request or application for a check or account  
15 by the person ;

16 b. As a substitute for a check or account previously issued to  
17 the person to whom the check is mailed or otherwise delivered; or

18 c. A check related to a consumer credit transaction or  
19 consumer loan business issued or provided by an insured depository  
20 institution as defined in 12 U.S.C. s.1813, a licensee under the New  
21 Jersey Consumer Finance Licensing Act, sections 1 through 49 of  
22 P.L.1996, c.157 (C.17:11c-1 et seq.), or other financial institution  
23 authorized to do business by the New Jersey Department of  
24 Banking and Insurance.

25

26 2. This act shall take effect on the first day of the third month  
27 after enactment.

28

29

30

STATEMENT

31

32 This bill makes it an unlawful practice for a person to send an  
33 unsolicited check to an individual which, upon being cashed or  
34 redeemed, automatically obligates the recipient to pay any fee or  
35 enrolls that individual in any club, service, plan or continuing  
36 agreement.

37 Checks which meet the following conditions are exempted from  
38 the bill's provisions:

- 39 • checks which are mailed in response to a request or  
40 application for a check or account by the individual;
- 41 • substitutes for checks or accounts previously issued to the  
42 person; or
- 43 • those related to a consumer credit transaction or consumer  
44 loan issued by certain types of financial institutions.

45 An unlawful practice under the Consumer Fraud Act is  
46 punishable by a monetary penalty of not more than \$10,000 for a  
47 first offense and not more than \$20,000 for any subsequent offense.

- 1 In addition, violations can result in cease and desist orders issued
- 2 by the Attorney General, the assessment of punitive damages and
- 3 the awarding of treble damages and costs to the injured party.

# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

### ASSEMBLY, No. 625

# STATE OF NEW JERSEY

DATED: FEBRUARY 6, 2014

The Assembly Consumer Affairs Committee reports favorably Assembly Bill No. 625.

This bill makes it an unlawful practice for a person to send an unsolicited check to an individual which, upon being cashed or redeemed, automatically obligates the recipient to pay any fee or enrolls that individual in any club, service, plan or continuing agreement.

Checks which meet the following conditions are exempted from the bill's provisions:

- checks which are mailed in response to a request or application for a check or account by the individual;
- substitutes for checks or accounts previously issued to the person; or
- those related to a consumer credit transaction or consumer loan issued by certain types of financial institutions.

An unlawful practice under the consumer fraud act 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.

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.



SENATE COMMERCE COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 625**

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 15, 2014

The Senate Commerce Committee reports favorably Assembly Bill No. 625.

This bill makes it an unlawful practice for a person to send an unsolicited check to an individual which, upon being cashed or redeemed, automatically obligates the recipient to pay any fee or enrolls that individual in any club, service, plan or continuing agreement.

Checks which meet the following conditions are exempted from the bill's provisions:

- checks which are mailed in response to a request or application for a check or account by the individual;
- substitutes for checks or accounts previously issued to the person; or
- those related to a consumer credit transaction or consumer loan issued by certain types of financial institutions.

An unlawful practice under the consumer fraud act 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. In addition, 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.

**SENATE, No. 1477**

**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)**

**Co-Sponsored by:**

**Senators Allen and Ruiz**

**SYNOPSIS**

Prohibits certain unsolicited checks.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/23/2014)**

1 AN ACT prohibiting certain unsolicited checks and supplementing  
2 P.L.1960, c.39 (C.56:8-1 et seq.).

3

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

6

7 1. It shall be an unlawful practice for a person to send an  
8 unsolicited check to an individual which, upon being cashed or  
9 redeemed, automatically obligates the recipient to pay any fee or  
10 enrolls that individual in any club, service, plan, or continuing  
11 agreement.

12 For the purposes of this act, "unsolicited check" means any  
13 check mailed or otherwise delivered to a person, other than:

14 a. In response to a request or application for a check or account  
15 by the person ;

16 b. As a substitute for a check or account previously issued to  
17 the person to whom the check is mailed or otherwise delivered; or

18 c. A check related to a consumer credit transaction or  
19 consumer loan business issued or provided by an insured depository  
20 institution as defined in 12 U.S.C. s.1813, a licensee under the New  
21 Jersey Consumer Finance Licensing Act, sections 1 through 49 of  
22 P.L.1996, c.157 (C.17:11c-1 et seq.), or other financial institution  
23 authorized to do business by the New Jersey Department of  
24 Banking and Insurance.

25

26 2. This act shall take effect on the first day of the third month  
27 after enactment.

28

29

30

#### STATEMENT

31

32 This bill makes it an unlawful practice for a person to send an  
33 unsolicited check to an individual which, upon being cashed or  
34 redeemed, automatically obligates the recipient to pay any fee or  
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42 person; or
- 43 • those related to a consumer credit transaction or consumer  
44 loan issued by certain types of financial institutions.

45 An unlawful practice under the Consumer Fraud Act is  
46 punishable by a monetary penalty of not more than \$10,000 for a  
47 first offense and not more than \$20,000 for any subsequent offense.

48 In addition, violations can result in cease and desist orders issued

**S1477 VAN DREW, SCUTARI**

3

- 1 by the Attorney General, the assessment of punitive damages and
- 2 the awarding of treble damages and costs to the injured party.

**ASSEMBLY BILL NO. 625**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 625 with my recommendations for reconsideration.

This bill makes it an unlawful practice under the Consumer Fraud Act for a person to send an unsolicited check to an individual that, upon being cashed or redeemed, automatically obligates the recipient to pay any fee or enrolls that individual in any club, service, plan, or continuing agreement.

While I share the sponsors' interest in protecting vulnerable consumers from misleading advertising and marketing practices, I am troubled by the bill's imposition of new, significant financial penalties for New Jersey's already over-regulated business community. Typically, our State's Consumer Fraud Act is reserved for fraudulent, deceptive, misleading, or other unconscionable business practices, which unscrupulous conduct justifies the significant fines and penalties imposed under the law. Here, however, the bill's prohibitions apply even if there is no use or employment of any fraudulent or deceitful conduct. Thus, under certain circumstances, the severe penalties established under the Consumer Fraud Act would be disproportionate to the offenses proscribed in the legislation. In order to address this imbalance, I propose removing the bill's provisions from the Consumer Fraud Act, establishing a more equitable penalty, and maintaining enforcement authority with the Attorney General.

Likewise, I am concerned that the legislation will expose businesses to costly, unwarranted litigation by failing to provide that a new, private civil cause of action has not been

created. Accordingly, I propose revising the legislation to clarify that the administrative penalty established therein is the sole remedy for violations of the bill's provisions. In so doing, we can ensure that the bill is carefully calibrated to protect consumers, while avoiding unwarranted fines, penalties, and litigation for the State's business community.

Accordingly, I herewith return Assembly Bill No. 625 and recommend that it be amended as follows:

- Page 2, Title, Line 2: Delete "P.L.1960, c.39 (C.56:8-1 et seq.)" and insert "Title 2A of the New Jersey Statutes"
- Page 2, Section 1, Line 7: Delete "It shall be an unlawful practice for a" and insert "No"
- Page 2, Section 1, Line 7: Delete "to" and insert "shall"
- Page 2, Line 25: Insert new section 2 to read as follows: "2. 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 2, Section 2, Line 26:

[seal]

Delete "2." and insert "3."

Respectfully,

/s/ Chris Christie

Governor

Attest:

/s/ Christopher S. Porrino

Chief Counsel to the Governor

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## Governor Chris Christie Takes Action On Pending Legislation

Tuesday, October 27, 2015      Tags: [Bill Action](#)



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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:**  
Brian Murray  
Nicole Sizemore  
609-777-2600



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# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE, No. 1477

# STATE OF NEW JERSEY

DATED: SEPTEMBER 15, 2014

The Senate Commerce Committee reports favorably Senate Bill No. 1477.

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