

CHAPTER 119

AN ACT concerning the sending of unsolicited advertising by text messaging and the blocking of text messaging and supplementing Title 2A of the New Jersey Statutes.

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

C.2A:65D-1 Definitions relative to certain unsolicited advertising via text messaging.

1. As used in this act:

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

"Text messaging" means 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 any other electronic communications device.

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

C.2A:65D-2 Sending of unsolicited advertising via text message incurring telecommunications charge prohibited.

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

C.2A:65D-3 Permission required for sending unsolicited advertisement via text messaging.

3. No person may send an unsolicited advertisement by means of text messaging without first receiving permission from the intended recipient. Permission may be granted only with prior express authorization from the intended recipient that includes the number to which the text message advertisement may be sent. The permission may be revoked at any time with a request that includes the number for which permission is being revoked.

C.2A:65D-4 Option to block certain text message charges.

4. No telecommunications company shall sell, or offer to sell, text messaging services to customers in this State unless the company offers an option to such customers to block all incoming and outgoing text messages that result in telecommunications charges or usage allocation deductions; provided, however, the telecommunications company may continue to send text messages to customers 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.

C.2A:65D-5 Violations, penalties.

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.

6. This act shall take effect on the first day of the thirteenth month following enactment .

Approved October 26, 2015.