

ENGROSSED HOUSE  
BILL NO. 1691

By: Davis and Nance of the  
House

and

Coffee of the Senate

An Act relating to technology; amending 15 O.S. 2001, Sections 776.1 and 776.4, which relate to fraudulent electronic mail; modifying civil penalty; making it unlawful to send a commercial electronic mail message without a return telephone number or e-mail address; requiring sender to remove certain e-mails from list upon notification; making it unlawful to assist in the transmission of certain unsolicited commercial electronic mail messages; defining term; adding definition of commercial electronic mail message; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 15 O.S. 2001, Section 776.1, is amended to read as follows:

Section 776.1 A. It shall be unlawful for a person to initiate an electronic mail message that the sender knows, or has reason to know:

1. Misrepresents any information in identifying the point of origin or the transmission path of the electronic mail message;
2. Does not contain information identifying the point of origin or the transmission path of the electronic mail message; or
3. Contains false, malicious, or misleading information which purposely or negligently injures a person.

B. Any person ~~violating~~ found to be in violation of the provisions of this section in an action brought by the Attorney General or a district attorney shall be subject to a civil penalty of up to Five Hundred Dollars (\$500.00).

C. All acts and practices declared to be unlawful by ~~subsection A and E~~ of this section shall, in addition, be violations of the Oklahoma Consumer Protection Act.

D. For purposes of this section, an electronic mail message which is declared to be unlawful by subsection A of this section shall be considered a fraudulent electronic mail message or a fraudulent bulk electronic mail message.

E. It shall be unlawful for any person to sell, give, or otherwise distribute or possess with the intent to sell, give or distribute software which:

1. Is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information;

2. Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or

3. Is marketed by that person or another acting in concert with that person and with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

F. It shall be unlawful for any person or entity to initiate within the state the transmission of a commercial electronic mail message consisting of advertising material for the lease, sale, rental, gift offer, or other disposition of any realty, goods, services, or extensions of credit without a toll-free telephone number or valid sender-operated return e-mail address that the recipient of the unsolicited documents may call or e-mail to notify the sender not to e-mail any further unsolicited documents. A sender shall remove the recipient from their e-mail message list if the sender receives an e-mail message from the recipient to the sender-operated return e-mail address that indicates anywhere in the subject line or text that the recipient wants their name removed from the list of the sender.

G. It shall be unlawful for any person or entity to assist in the transmission of an unsolicited commercial electronic mail

message when the person providing the assistance knows, or should know, that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any act or practice that violates the provisions of this section. As used in this subsection "assist or initiate the transmission" does not mean the transmission of any commercial electronic mail message by a telecommunications utility or electronic mail service provider to the extent that the telecommunications utility or electronic mail service provider merely carries the transmission over its network.

SECTION 2. AMENDATORY 15 O.S. 2001, Section 776.4, is amended to read as follows:

Section 776.4 For purposes of Sections ~~4~~ 776.1 through ~~3~~ 776.3 of this ~~act~~ title:

1. "Electronic mail messages" or "e-mail" means a message, file, or other information that is transmitted through a local, regional, or global network regardless of whether the message, file, or other information is viewed, stored for retrieval at a later time, printed on to paper or other similar material, or is filtered or screened by a computer program that is designed or intended to filter or screen items of electronic mail;

2. "Fraudulent electronic mail message" or "fraudulent bulk electronic mail message" means any electronic mail message or bulk electronic mail message which is declared unlawful by subsection A of Section ~~4~~ 776.1 of this ~~act~~ title;

3. "Initiate the transmission" means the action of the original sender of an electronic mail message, not to the action by any intervening computer service that may handle or retransmit the message;

4. "Computer network" means a set of related, remotely connected devices and any communications facilities including more than one computer with the capability to transmit data among them through the communications facilities; ~~and~~

5. "Electronic mail service provider" means any person who:
- a. is an intermediary in sending or receiving electronic mail, and
  - b. provides to end-users of electronic mail services the ability to send or receive electronic mail; and

6. "Commercial electronic mail message" means an electronic mail message sent for the purpose of promoting real property, goods or services for sale or lease. Commercial electronic mail message does not include:

- a. an electronic mail message to which an electronic mail service provider has attached an advertisement in exchange for free use of an electronic mail account, when the user has agreed to the arrangement,
- b. an electronic mail message between persons with a prior business relationship, or
- c. an electronic mail message between persons with a personal relationship.

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 26th day of February, 2003.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2003.

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Presiding Officer of the Senate