

EHB 1528

THE STATE SENATE
Tuesday, April 1, 2003

ENGROSSED

House Bill No. 1528

ENGROSSED HOUSE BILL NO. 1528 - By: PERRY, CASE and PETTIGREW 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; making it unlawful to send certain electronic mail messages without certain information in the subject line; requiring certain additional information in certain messages for adults; adding certain definitions; 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 the provisions of this section shall be subject to a civil penalty of up to Five Hundred Dollars (\$500.00).

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

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

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

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

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

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

21 F. It shall be unlawful for a person to initiate an electronic
22 mail message that consists of an unsolicited electronic mail
23 advertisement for the lease, sale, rental, gift offer, or other

1 disposition of any realty, goods, services, or extension of credit
2 unless the subject line of each and every message includes "ADV:" as
3 the first four characters. If the electronic mail message contains
4 information that consists of an unsolicited electronic mail
5 advertisement for the lease, sale, rental, gift offer, or other
6 disposition of any realty, goods, services, or extension of credit
7 that may only be viewed, purchased, rented, leased, or held in
8 possession by an individual eighteen (18) years of age and older,
9 the subject line of each and every message shall include "ADV:ADLT"
10 as the first eight characters.

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

13 Section 776.4 For purposes of Sections ~~±~~ 776.1 through ~~³~~ 776.3
14 of this ~~act~~ title:

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

22 2. "Fraudulent electronic mail message" or "fraudulent bulk
23 electronic mail message" means any electronic mail message or bulk

1 electronic mail message which is declared unlawful by subsection A
2 of Section 1 of this act;

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

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

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

16 6. "Electronic mail advertisement" means any electronic mail
17 message, the principal purpose of which is to promote, directly or
18 indirectly, the sale or other distribution of goods or services to
19 the recipient; and

20 7. "Unsolicited electronic mail advertisement" means any
21 electronic mail advertisement that:

- 1 a. is addressed to a recipient with whom the initiator
2 does not have an existing business or personal
3 relationship, and
4 b. is not sent at the request of or with the express
5 consent of the recipient.

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

7 COMMITTEE REPORT BY: COMMITTEE ON ENERGY, ENVIRONMENT &
8 COMMUNICATIONS, dated 3-27-03 - DO PASS.