

ARKANSAS SENATE
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of Senate Bill No. 626

TO PRESERVE THE RIGHT TO BE LEFT ALONE.

Amendment No. 1 to Senate Bill No. 626

Amend Senate Bill No. 626 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 4, Chapter 75, is amended to add an additional subchapter to read as follows:

Subchapter 12 – Unlawful Commercial Email Solicitation

4-75-1201. Definitions.

As used in this subchapter:

(1) "Email" means a communication exchanged between people by computer, phone, or any other electronic device capable of sending an electronic communication to an email address, through either a local area network or the internet;

(2) "Email address" means a unique identifier for a location on the internet that is used for sending and receiving emails; and

(3) "Spam" means an unsolicited commercial email message that is irrelevant or inappropriately sent to a large number of email addresses.

4-75-1202. Email privacy – Statewide database.

(a) The Attorney General shall:

(1) Establish and operate a single statewide database composed of a list of consumer email addresses whose users object to receiving commercial email solicitations or spam;

(2)(A) Specify the methods by which the objections to commercial email solicitations or spam are to be collected and added to the database.

(B)(i) Any consumer wishing to be placed in the database may notify the Attorney General and be placed in the database upon receipt by the Attorney General of an application and an initial listing charge, which shall not exceed ten dollars (\$10.00).

(ii) The listing shall be renewed by the Attorney General annually for each consumer upon the receipt of a renewal notice and any annual assessment fee not to exceed five dollars (\$5.00);

(3) Specify the methods, if any, by which the objections may be withdrawn from the database;

(4) Specify the methods by which any person desiring to make or



transmit commercial email solicitations or spam may obtain access to the database as required to avoid sending emails to the email addresses of the consumers included in the database;

(5) Specify the methods, if any, for recovering the costs involved in identifying, collecting, updating, and disseminating the database and for other activities related to the Attorney General's duties under this section; and

(6) Specify the frequency with which the database will be updated and specify the method by which the updating will take effect for purposes of compliance with this section, allowing no fewer than ten (10) calendar days for affected persons to update their databases after the Attorney General's database has been updated.

(b) It is a violation of this section for a person to knowingly make or transmit a commercial email solicitation or spam:

(1) To the email address of a consumer included in the then-current database maintained by the Attorney General under this section; or

(2) Without having first accessed, in the manner specified by the Attorney General, the then-current database maintained by the Attorney General under this section.

(c) This section does not apply to:

(1) A person who is a licensee, as defined in § 17-42-103, who is a resident of the State of Arkansas and whose email to the consumer is for the sole purpose of selling, exchanging, purchasing, renting, listing for sale or rent, or leasing real estate in accordance with the provisions for which he or she was licensed and not in conjunction with any other offer;

(2) A motor vehicle dealer, as defined in § 23-112-103, who is a resident of the State of Arkansas and who maintains a current motor vehicle dealer's license issued by the Arkansas Motor Vehicle Commission, whose email to the consumer is for the sole purpose of selling, offering to sell, soliciting, or advertising the sale of motor vehicles in accordance with the provisions for which he or she was licensed and not in conjunction with any other offer;

(3) An agent, as defined in § 23-64-102(1), who maintains a current license as an insurance agent whose email to the consumer is for the purpose of soliciting, consulting, advising, or adjusting in the business of insurance;

(4) A broker-dealer, agent, or investment advisor registered by the Securities Commissioner under the provisions of § 23-42-301 et seq., whose email to the consumer is for the purpose of effecting or attempting to effect the purchase or sale of securities or has the purpose of providing or seeking to provide investment or financial advice;

(5) A person sending an email on behalf of a charitable organization, as defined in § 4-99-403(2), whose email to the consumer is for the sole purpose of soliciting for the charitable organization and who receives no compensation as a result of his or her solicitation activities on behalf of the charitable organization;

(6) A person sending an email on behalf of a newspaper of general circulation whose email to the consumer is for the purpose of soliciting a subscription to the newspaper from the consumer or soliciting advertising from the consumer;

(7)(A) An email sent on behalf of a federally chartered or state-chartered bank if the email to the consumer relates to banking services

other than credit card offers.

(B) An email under this subdivision (c)(7) shall not reference any form of credit card offer; and

(8) An email sent on behalf of a funeral establishment properly licensed under § 17-29-301 et seq., if the purpose of the email relates to services provided by the funeral establishment in its ordinary course of business.

(d)(1) A violation of this section constitutes an unfair or deceptive act or practice as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

(2) All authority granted to the Attorney General and all remedies available to the Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq., are granted to and available to the Attorney General for the enforcement of this section.

(e) All moneys derived from the listing charge under subsection (a) of this section shall be deposited into the State Treasury to the credit of the State Central Services Fund as a direct revenue to be used exclusively to defray the cost associated with the creation and maintenance of the database required by this section and the enforcement of this section."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Hutchinson

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Secretary