SYNOPSIS

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.

CURRENT VERSION OF TEXT

As reported by the Assembly Consumer Affairs Committee on June 5, 2014, with amendments.

(Sponsorship Updated As Of: 9/23/2014)
AN ACT concerning the sending of unsolicited advertising by text messaging and the blocking of text messaging and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

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

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 [short messages of]¹ text, images or a combination of text and images¹ by means of a cellular telephone, a paging or message service, a personal digital assistant or [similar telecommunications technology]¹ any other electronic communications device¹.

"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).

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.

3. ¹[Prior permission of the recipient to send an advertisement by means of text messaging]¹ No person may send an unsolicited advertisement by means of text messaging without first receiving permission from the intended recipient. Permission¹ may be granted only with prior express [permission]¹ authorization from the intended recipient¹ 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.

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; provided, however, 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:
¹Assembly ACO committee amendments adopted June 5, 2014.
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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.

5. A violation of this act shall be an unlawful practice subject
to the penalties applicable pursuant to section 1 of P.L.1966, c.39
(C.56:8-13) and section 2 of P.L.1999, c.129 (C.56:8-14.3), except
that a person may not be held liable for a violation of section 2 of
this act if the person demonstrates by clear and convincing
evidence that any unsolicited advertisement sent by text messaging
was an isolated message sent no more than one time in a 12-month
period.

6. The Division of Consumer Affairs in the Department of Law
and Public Safety, pursuant to the provisions of the "Administrative
Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall
promulgate rules and regulations necessary to implement this act.

7. This act shall take effect on the first day of the thirteenth
month following enactment, except that the Division of Consumer
Affairs may take such action in advance of the effective date as
shall be necessary to implement the provisions of the act.