

TENNESSEE

Tenn. Code Ann.

§47-18-1601. Short Title: Unsolicited Telefacsimile Advertising Act

Repealed by Chapter 15, §8, Public Acts of 2003, effective July 1, 2003.

§47-18-1602. Unsolicited Advertising by Fax

Repealed by Chapter 15, §8, Public Acts of 2003, effective July 1, 2003.

§47-18-1604. Penalty for Unsolicited Advertising by Fax

Repealed by Chapter 15, §8, Public Acts of 2003, effective July 1, 2003.

§47-18-2501. Unsolicited Advertising by Fax

Amended by Chapter 15, §§2-7, Public Acts of 2003, effective July 1, 2003. As amended, it no longer applies to fax advertising.

§65-4-501. Definitions Pertaining to Unsolicited Fax Advertisements

As used in this part [§§66-5-401 - 66-5-406], unless the context otherwise requires:

- (1) "Authority" means the Tennessee regulatory authority;
- (2) "Fax" or "facsimile", means:
 - (2)(A) Every process in which electronic signals are transmitted by telephone lines for conversion into written text or other graphic images, but
 - (2)(B) "Fax" or "facsimile" does not include:
 - (2)(B)(i) Electronic mail or "e-mail" as regulated pursuant to Title 47, Chapter 18, Part 25 [*which governs unsolicited advertising by electronic means*], or
 - (2)(B)(ii) Any transmission of electronic signals by a local exchange company to the extent that the local exchange company merely carries that transmission over its network;
- (3) "Local exchange company" includes telecommunications service providers as defined in §65-4-101, competing telecommunications service providers as such term is defined in §65-4-101, telephone cooperatives, and cellular or other wireless telecommunications providers, or interactive computer service provider as defined by 47 U.S.C. §230(f);
- (4) "Person" means a natural person, individual, partnership, trust, estate, incorporated or unincorporated association, any corporation, parent, subsidiary or affiliate thereof, or any other legal or commercial entity however organized and wherever located;
 - (4)(A) "Affiliate" of a specific person means a person that directly or indirectly

through one or more intermediaries, controls, or is controlled by, is under common control with, the person specified;

(4)(B) "Parent" means a company owning more than 50 percent of the voting shares, or otherwise a controlling interest, of another company;

(4)(C) "Subsidiary" means a corporation with more than 50 percent of its outstanding voting shares being owned by its parent or the parent's other subsidiaries; and

(5) "Unsolicited facsimile advertisement" means any material advertising the commercial availability or quality of any property, goods, or services, that is transmitted by fax to any person located within the state of Tennessee without such person's prior express invitation or permission, and is transmitted from Tennessee or elsewhere for the purpose of offering the extension of credit or encouraging the purchase or rental of, or investment in, property, goods, or services.

Created by Chapter 15, §1, Public Laws of 2003, effective July 1, 2003.

§65-4-502. Violations Involving Unsolicited Fax Advertisements

(a) No person shall transmit or cause another person to transmit an unsolicited facsimile advertisement, provided, that a not-for-profit membership organization exempt from paying taxes under §501(c) of the Internal Revenue Code is exempt from this subsection (a) if the facsimile is made by a bona fide member, volunteer, or direct employee of the organization to its current membership.

(b) Any transmission by facsimile machine shall include in a margin at the top or bottom of each transmitted page or on the first page of the transmission the date and time of the transmission; an identification of the business, other entity, or individual sending the message; and the telephone number of the sending machine or of such business, other entity or individual.

Created by Chapter 15, §1, Public Laws of 2003, effective July 1, 2003. Amended by Chapter 502, §1, Public Laws of 2004, effective April 12, 2004; and Chapter 510, §1, Public Laws of 2006, effective March 24, 2006.

§65-4-503. Rulemaking Power of Tennessee Regulatory Authority

The authority is authorized to promulgate any rules and regulations necessary to implement and effectuate this part.

Created by Chapter 15, §1, Public Laws of 2003, effective July 1, 2003.

§65-4-504. Enforcement Powers of Tennessee Regulatory Authority

(a) The authority is authorized to initiate proceedings relative to a violation of this part or any rules and regulations promulgated pursuant to this part. Such proceedings include, without limitation, proceedings to: issue a cease and desist order; issue an order imposing a civil penalty up to a maximum of \$2,000 for each violation; and to seek additional relief in any court of competent jurisdiction. Violations shall be calculated in a liberal manner to deter violators and to protect consumers. Each page of each unsolicited facsimile advertisement may constitute a separate violation.

(b) In the course of investigating an alleged violation of this part, the authority is authorized

to issue investigative demands, issue subpoenas, administer oaths, and conduct hearings in accordance with the provisions of this title. After proper notice, any such hearing shall be conducted in conformance with authority rules and the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5. All civil penalties assessed pursuant to the provisions of this part shall be deposited in the public utilities account in the state treasury.

Created by Chapter 15, §1, Public Laws of 2003, effective July 1, 2003.

§65-4-505. Effect of Junk Fax Statutes on Other Rights

(a) The provisions of this part shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

(b) The provisions of this part shall not be construed to restrict or apply to communications to and from citizens and their elected representatives.

Created by Chapter 15, §1, Public Laws of 2003, effective July 1, 2003.

§65-4-506. Violations Considered Deceptive Trade Practices

(a) A violation of this part also constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in Title 47, Chapter 18, Part 1.

(b) For the purpose of application of the Tennessee Consumer Protection Act, any violation of the provisions of this part shall be construed to constitute an unfair or deceptive act or practice affecting trade or commerce and subject to the penalties and remedies as provided in that act, in addition to the penalties and remedies set forth in this part as well as that of 47 U.S.C. §227 [*which regulates telemarketing*], or any other cause of action, civil remedy or penalty provided by law.

Created by Chapter 15, §1, Public Laws of 2003, effective July 1, 2003.