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Senate Bill 357 (Substitute S-7 as reported by the Committee of the Whole)

Sponsor: Senator Michael D. Bishop

Committee: Technology and Energy

## **CONTENT**

The bill would create the "Electronic Mail Solicitation Act" to do all of the following:

- Create the Electronic Mail Solicitation Program within the Department of Consumer and Industry Services and require the Program to maintain a list of e-mail addresses of people not wanting to receive unsolicited commercial e-mail.
- Provide that the Program would be funded by the fees, fines, civil penalties, and forfeitures collected by the Attorney General for violations of the Act.
- Require senders of unsolicited commercial e-mail to register with the Program and pay a fee.
- Require senders to include in the e-mail a subject line containing "ADV:" as the first four characters, certain contact information, and a valid method for recipients to opt out of receiving future e-mails.
- Prohibit senders from using a third party's internet domain name or e-mail address without consent; or misrepresenting or failing to include information in identifying the point of origin or the transmission path of the e-mail.
- Prohibit a person from knowingly providing or possessing with the intent to provide software designed to facilitate the falsification of e-mail transmission information.

A violation would be a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$10,000. Each e-mail sent would be a separate violation. Money received by a defendant from violating the proposed Act, and all personal property knowingly used in connection with a violation, would be subject to seizure and forfeiture.

A civil action could be brought by the Attorney General, a recipient of e-mail sent in violation of the Act, or by an e-mail service provider through whose facilities an e-mail was transmitted in violation of the Act. The recipient, service provider, or the Attorney General could recover either actual damages, or the lesser of the following: \$500 per unsolicited commercial e-mail, or \$250,000 for each day the violation occurred. A prevailing e-mail service provider or recipient would have to be awarded actual costs and reasonable attorney fees.

Legislative Analyst: Julie Koval

## **FISCAL IMPACT**

Revenue to the Program would depend on the number of individuals and businesses registered. Enforcement costs and recoveries for damages would depend on the number of violations. The Department of Consumer and Industry Services does not have an estimate regarding its administrative costs.

There are no data to indicate how many offenders would be convicted of violating the proposed Act. Local units of government would incur the costs of misdemeanor probation and incarceration in a local facility, which varies by county. Public libraries would benefit from any additional penal fine revenue collected.

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Bill Analysis @ [www.senate.michigan.gov/sfa](http://www.senate.michigan.gov/sfa)

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