

HOUSE BILL No. 4324

February 16, 2005, Introduced by Rep. Marleau and referred to the Committee on Energy and Technology.

A bill to amend 2003 PA 42, entitled
"Unsolicited commercial e-mail protection act,"
by amending section 7 (MCL 445.2507).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) Except as otherwise provided under subsection (2),
2 a person who violates this act is guilty of a ~~misdemeanor~~ **FELONY**
3 punishable by imprisonment for not more than ~~1 year~~ **10 YEARS** or a
4 fine of not more than ~~\$10,000.00~~ **\$25,000.00**, or both.

5 (2) A person who violates section 4 or violates this act in
6 the furtherance of another crime is guilty of a felony punishable
7 by imprisonment for not more than ~~4~~ **15** years or a fine of not
8 more than ~~\$25,000.00~~ **\$50,000.00**, or both.

9 (3) Each commercial e-mail sent in violation of this act is a

1 separate violation under this section.

2 (4) An e-mail service provider does not violate this act as a
3 result of either of the following:

4 (a) Being an intermediary between the sender and recipient in
5 the transmission of an unsolicited commercial e-mail that violates
6 this act.

7 (b) Provides transmission of unsolicited commercial e-mail
8 over the provider's network or facilities.

9 (5) It is prima facie evidence that the sender is in violation
10 of this section if the recipient is unable to contact the sender
11 through the return e-mail address provided by the sender under
12 section 3.

13 (6) It is a defense to a case brought under this section or an
14 action under section 8 that the unsolicited commercial e-mail was
15 transmitted accidentally or as a result of a preexisting business
16 relationship. The burden of proving that the commercial e-mail was
17 transmitted accidentally or as a result of a preexisting business
18 relationship is on the sender.