



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB4350

Introduced 02/02/04, by Charles E. Jefferson

SYNOPSIS AS INTRODUCED:

New Act

Creates the Child Protection Registry Act. Requires the Attorney General to establish a Child Protection Registry. Makes it unlawful for a person to initiate any commercial message or communication to any registered Contact Point if the message or communication: advertises products or services that a minor child is prohibited by law from purchasing; or contains or advertises adult content or links to such content. Makes it unlawful for a person to promote or allow the promotion of a trade or business in violation of this Act. Provides that the Contact Points subject to the Child Protection Registry are electronic mail addresses, instant message identities, postal addresses, and telephone numbers. Provides that consent by a minor is not a defense for a violation of this Act. Provides that a person is not in violation of the Act if the Contact Point has been on the Registry for less than 30 days or the person reasonably relies on the Registry provided by the Attorney General. Provides that the Attorney General shall establish procedures to report violations of this Act. Contains criminal and civil penalties. Effective immediately.

LRB093 20707 RXD 46594 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning business transactions.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Child
5 Protection Registry Act.

6 Section 5. Child Protection Registry.

7 (a) The Office of the Illinois Attorney General shall
8 establish a Child Protection Registry in which parents may
9 register their children's Contact Points as off limits from
10 certain categories of commercial messages as set forth in this
11 Act.

12 (b) Registration by parent. The Attorney General shall
13 permit a parent, legal guardian, or other person with control
14 or authority over Contact Points to which minor children have
15 access to register those Contact Points with the Registry.

16 (c) Contact points subject to registration. The Registry
17 may contain entries for the following kinds of Contact Points:

- 18 (1) electronic mail addresses;
19 (2) instant message identities;
20 (3) postal addresses; and
21 (4) telephone numbers.

22 (d) Addition of new types of Contact Points. The Office of
23 the Illinois Attorney General shall, from time to time and as
24 messaging technology develops, designate additional kinds of
25 Contact Points subject to registration on the Registry.

26 (e) Prohibition on initiating inappropriate commercial
27 messages to registered Contact Points. Except as otherwise
28 authorized by the Attorney General in rules prescribed under
29 this Act, it is unlawful for a person to initiate any
30 commercial message or other communication to any registered
31 Contact Point if the message or communication:

- 32 (1) advertises products or services that a minor child

1 is prohibited by law from purchasing; or

2 (2) contains or advertises adult content or links to
3 adult content.

4 (f) Third party liability. It is unlawful for a person to
5 promote, or allow the promotion of, that person's trade or
6 business, or goods, products, property, or services sold,
7 offered for sale, leased or offered for lease, or otherwise
8 made available through that trade or business in violation of
9 subsection (e) if that person:

10 (1) knows or should have known in the ordinary course
11 of the person's trade or business that the goods, products,
12 property, or services sold, offered for sale, leased, or
13 offered for lease or otherwise made available through that
14 trade or business were being promoted in such a message;

15 (2) received or expected to receive an economic benefit
16 from such promotion; and

17 (3) took no reasonable action to prevent the
18 transmission or to detect the transmission and report it to
19 the Attorney General.

20 (g) Compliance. The actual or implied consent given by the
21 minor does not create a defense to liability under subsection
22 (e) or (f).

23 (h) Fees. The Office of the Illinois Attorney General shall
24 include in its rules a method for assessing fees on marketers
25 for use of the Registry that is sufficient to establish,
26 administer, and maintain the Registry.

27 Section 10. Exceptions. A person is not in violation of
28 this Act if: (1) the Contact Point has been on the Registry for
29 less than 30 days; or (2) the person reasonably relies on the
30 Registry provided by the Attorney General and takes reasonable
31 measures to comply with this Act.

32 Section 15. Enforcement.

33 (a) Reporting of violation. For purposes of enforcing
34 subsections (e) and (f) of Section 5, the Office of the

1 Illinois Attorney General shall establish procedures to permit
2 the reporting of violations of subsections (e) and (f) of
3 Section 5, including appropriate links on the Internet web site
4 of the Office of the Illinois Attorney General and the use of a
5 toll-free telephone number for such purposes.

6 (b) Criminal penalty. A violation of subsection (e) or (f)
7 of Section 5 of this Act is a Class B misdemeanor. For purposes
8 of this subsection (b), each message in violation of subsection
9 (e) or (f) of Section 5 constitutes a separate violation. Each
10 unauthorized use of the Registry is a Class A misdemeanor for
11 which a fine not to exceed \$500,000 may be imposed.

12 (c) Civil penalty. Parents may recover actual damages, on
13 behalf of their children, for messages sent to a registered
14 Contact Point in violation of subsection (e) or (f) of Section
15 5. In lieu of actual damages, a parent may recover \$1,000 per
16 violation. For purposes of this subsection (c), each message in
17 violation of subsection (e) or (f) of Section 5 constitutes a
18 separate violation.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.