

# SENATE BILL REPORT

## SB 5925

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As of February 21, 2003

**Title:** An act relating to commercial text messages.

**Brief Description:** Prohibiting unsolicited commercial text messages.

**Sponsors:** Senator Finkbeiner, Kline, Hale and Esser.

**Brief History:**

**Committee Activity:** Technology & Communications: 2/24/03

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### SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

**Staff:** Dario de la Rosa (786-7484)

**Background:** Electronic text messages are messages sent to pagers and cellular telephones equipped with a short message service. Electronic text messages function much like electronic mail messages. Some wireless service plans require the subscriber to pay fixed rates for sending and receiving text messages.

In 1991, the U.S. Congress enacted the Telephone Consumer Protection Act (TCPA). TCPA mandated that the Federal Communications Commission (FCC) implement regulations to protect citizens' privacy rights by restricting unsolicited advertising on telephone networks. FCC rules prohibit the transmission of unsolicited advertisements to telephone facsimile machines. TCPA does not address unsolicited text messages sent to pagers and cellular phones.

**Summary of Bill:** Subject to certain exceptions, the sending of unsolicited commercial text messages to pagers and cellular phones is prohibited. Commercial text messages are permitted only if the message is sent at the direction of a person offering cellular service and the subscriber has elected to receive messages from that service, or if the message is transmitted by a person or an affiliate of a person who has an existing business relationship with the subscriber and that subscriber has elected to receive messages from the business relation or the affiliate of the business relation.

In the case of a lawsuit by a recipient of a commercial electronic text message, damages are the greater of \$500 or actual damages. Cellular and pager service providers may not be held liable for serving as an intermediary between the sender and recipient of commercial text messaging.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

