

As Introduced

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H. B. No. 183

Representative Yuko

**Cosponsors: Representatives Pillich, Foley, Letson, Chandler, Hagan,
Winburn, Boyd, Murray, Skindell, Ujvagi, Harris, Luckie**

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A B I L L

To amend sections 4931.75 and 4931.99 of the Revised 1
Code to abolish the criminal penalty for sending 2
an unwanted facsimile advertisement to a business 3
entity, and to establish that a person may recover 4
one thousand dollars in a civil action for such a 5
violation. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4931.75 and 4931.99 of the Revised 7
Code be amended to read as follows: 8

Sec. 4931.75. (A) As used in this section: 9

(1) "Advertisement" means a any message or material ~~intended~~ 10
~~to cause the sale of realty,~~ promoting the availability or quality 11
of any goods, property, or services. 12

(2) "Facsimile device" means a device that electronically or 13
telephonically receives and copies onto paper reasonable 14
reproductions or facsimiles of documents and photographs through 15
connection with a telephone network. 16

(3) "Pre-existing business relationship" does not include 17

transmitting an advertisement to the owner's or lessee's facsimile 18
device. 19

(B)(1) No person shall transmit an advertisement to a 20
facsimile device located at the premises of a business 21
corporation, partnership, association, joint-stock company, 22
business trust, or other entity the premises of which are not used 23
as a residence, unless the person has received prior permission 24
from the owner or, if the device is leased, from the lessee of the 25
device to which the message is to be sent to transmit the 26
advertisement; or the person has a pre-existing business 27
relationship with such owner or lessee. ~~Division (B)(1) of this~~ 28
~~section does not apply to a person who transmits an advertisement~~ 29
~~to a facsimile device located on residential premises.~~ 30

(2) No person shall transmit an advertisement to a facsimile 32
device located on residential premises unless the person has 33
received prior written permission from the owner or, if the device 34
is leased, from the lessee of the device to which the message is 35
to be sent to transmit the advertisement. ~~In~~ 36

(C) ~~In~~ addition to any other ~~penalties or~~ remedies, a 37
recipient of an advertisement transmitted in violation of division 38
(B)(1) or (2) of this section may bring a civil action against the 39
person who transmitted that advertisement or caused it to be 40
transmitted. In that action, if a court determines that a 41
violation has occurred, the recipient ~~may~~ shall recover one 42
thousand dollars for each violation. 43

~~(C)(D)~~ When requested by the owner or lessee, the 44
transmission shall occur between seven p.m. and five a.m. 45

This section applies to all such advertisements ~~intended to~~ 46
~~be so~~ transmitted within this state. 47

Sec. 4931.99. (A) Whoever violates division (D) of section 48
4931.49 of the Revised Code is guilty of a misdemeanor of the 49
fourth degree. 50

(B) Whoever violates section 4931.25, 4931.26, 4931.27, 51
4931.30, or 4931.31 of the Revised Code is guilty of a misdemeanor 52
of the third degree. 53

(C) Whoever violates section 4931.28 of the Revised Code is 54
guilty of a felony of the fourth degree. 55

(D) Whoever violates section 4931.29 or division (B) of 56
section 4931.35 of the Revised Code is guilty of a misdemeanor in 57
the first degree. 58

(E) Whoever violates division (E) or (F) of section 4931.49 59
or division (B)(2) of section 4931.66 of the Revised Code is 60
guilty of a misdemeanor of the fourth degree on a first offense 61
and a felony of the fifth degree on each subsequent offense. 62

~~(F) Whoever violates section 4931.75 of the Revised Code is 63
guilty of a minor misdemeanor for a first offense and a 64
misdemeanor of the first degree on each subsequent offense. 65~~

Section 2. That existing sections 4931.75 and 4931.99 of the 66
Revised Code are hereby repealed. 67