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Bill Analysis
Legislative Service Commission

S.B. 296
127th General Assembly
(As Introduced)

Sens. D. Miller, Spada, Fedor, Padgett

BILL SUMMARY

- Requires a court to award attorney fees to a successful plaintiff in an action against a person for sending an advertisement to a facsimile device without prior permission from the owner or lessee of the device.

CONTENT AND OPERATION

Transmitting advertising by facsimile device

Existing law prohibits a person from transmitting an advertisement to a facsimile device unless the person has received prior permission from the owner or, if the device is leased, from the lessee of the device to which the message is to be sent to transmit the advertisement; or the person has a pre-existing business relationship with such owner or lessee. This prohibition does not apply to a person who transmits an advertisement to a facsimile device located on residential premises. (R.C. 4931.75(B)(1).) Existing law also prohibits a person from transmitting an advertisement to a facsimile device located on residential premises unless the person has received prior written permission from the owner or, if the device is leased, from the lessee of the device to which the message is to be sent to transmit the advertisement. In addition to any other penalties or remedies, a recipient of an advertisement transmitted in violation of this prohibition may bring a civil action against the person who transmitted that advertisement or caused it to be transmitted. In that action, the recipient may recover \$1,000 for each violation. (R.C. 4931.75(B)(2).) When requested by the owner or lessee, the transmission must occur between 7 p.m. and 5 a.m. (R.C. 4931.75(C)).

The bill requires the court to award reasonable attorney fees to a plaintiff for any successful action brought for a violation of the prohibitions described above (R.C. 4931.75(D)). The bill also clarifies that the owner or lessee described in the last sentence of the paragraph above is the owner or lessee of the receiving

facsimile device and that the transmission is of an advertisement to a facsimile device (R.C. 4931.75(C)).

COMMENT

R.C. 4931.75(A) provides the following definitions:

(1) "Advertisement" means a message or material intended to cause the sale of realty, goods, or services.

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

(3) "Pre-existing business relationship" does not include transmitting an advertisement to the owner's or lessee's facsimile device.

HISTORY

ACTION	DATE
Introduced	02-26-08

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