

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 JUN 30 P5:27

RECEIVED BY:

SENATE

S. No. 434

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

The Philippines is the world's largest patron of Short Messaging Service or popularly known as SMS or "TEXT" message, sending some 100 million messages among mobile phone users per day in the country alone.

The indispensability of the mobile phone has been the subject of a recent study conducted by Siemens, one of the leading cellular phone manufacturer. Now on its third year, the Siemens Mobile Lifestyle Survey reported that the indispensability of mobile phones is strongly felt in the Asia-Pacific region, particularly in China with 70 percent and the Philippines with 65 percent. Furthermore, the study also reported that the Filipinos are utilizing this gadget as an important means in communicating with loved ones with a revealing 54 percent as oppose to 24 percent of Hong Kongers. Inevitably, this fact will be taken advantage of by business persons who will see the potential of advertising in this new form.

Spamming in the internet has been a perennial problem that has plagued the Internet world. This bill seeks to avoid exactly the same problem. Sending unsolicited messages and advertisements through mobile phone will be discouraged and prohibited through this bill.

In view of the foregoing, approval of this bill is earnestly sought.

S. Osmeña III
SERGIO OSMEÑA III
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 JUN 30 P5:27

RECEIVED BY: Adw

SENATE

S. No. 434

Introduced by Senator S. R. Osmeña III

AN ACT
REGULATING THE USE OF TEXT, GRAPHICS, MULTIMEDIA AND OTHER
SIMILAR MESSAGING SYSTEMS OF MOBILE PHONES AS MEDIUM FOR
BUSINESS ENTITY ADVERTISEMENTS AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:

1 SECTION 1. Short Title - This Act shall be known as the "**Cellular**
2 **Phone Message Spamming Protection Act of 2004**".

3 SECTION 2. Definition of Terms - Whenever used in this Act , the
4 following terms shall mean:

5 Advertisements - shall refer to any form of business promotions,
6 announcements, and other messages relevant to company affairs.

7 Multimedia - shall refer to a live streaming or pre-recorded video
8 and audio signals transmitted by a third generation (3G) wireless telephone
9 system.

10 Network Operator - shall refer to a personnel of network provider
11 authorized to directly and simultaneously transmit message to all its subscribers
12 by way of SMS and other similar means.

13 Network Provider - shall refer to any wireless telephone or cellular
14 phone companies capable of transmitting text, graphic and multimedia signals
15 using their telecommunications network.

1 Short Message Service (SMS) or Text Messaging - is a small
2 text message of up to 160 characters transmitted by a GSM phone or other
3 digital type wireless phone to another SMS enabled device.

4 Unsolicited Advertisements - shall refer to commercial
5 advertisements sent by business entities to cellular phone subscribers who did
6 not signify their intention to receive SMS advertisements as reflected in the
7 subscribers' advertisement consent reply form issued by the Network Provider.

8 SECTION 3. Prohibited Act - It shall be unlawful for business
9 entities to send unsolicited advertisements directly to cellular phone subscribers
10 or through a network operator via transmission arrangement with the network
11 provider using SMS, graphics, or multimedia. Provided however, that in case the
12 unsolicited advertisement will originate from the network provider, it shall not be
13 liable to the penalties provided in this act. Provided further, that such
14 advertisements of the network Provider shall only be limited to service
15 announcements affecting the subscribers.

16 SECTION 4. Advertisement Consent Reply Form - All cellular
17 phone network providers shall be required to make part of their subscriber's
18 application form, a portion that will reflect the latter's intention or rejection to
19 receive SMS advertisements. Provided however, that in case of existing
20 subscribers, a separate consent reply form shall be sent to them individually.

21 SECTION 5. Coverage - All business entities registered with the
22 Securities & Exchange Commission and Department of Trade & Industry as well
23 as individuals and non-profit organizations who connives in the execution of the
24 prohibited acts stated herein, shall be covered by this Act.

25 SECTION 6. Penalties - Any person who shall violate any of the
26 prohibited acts punishable by this Act shall, upon conviction, be punished by a
27 fine of not less than Five Hundred Thousand Pesos (P500,000.00) but not more
28 than One Million Pesos (P1,000,000.00), or an imprisonment of not less than six
29 (6) months but not more than six (6) years, or both at the discretion of the court.

1 Provided however, If the violation is made by a corporation, association, or
2 partnership, the penalty provided herein shall be imposed upon the directors,
3 president , or managing partners. Provided further, that if the transmission of
4 advertisement is coursed through a network provider, it shall take on the liability
5 of the penalty imposed.

6 SECTION 7. Repealing Clause - All laws, decrees, orders, or
7 administrative rules and regulations or any part thereof whish may be
8 inconsistent with the provision of this Act are hereby repealed, amended or
9 modified accordingly.

10 SECTION 8. Effectivity - This Act shall take effect thirty (30) days
11 after its publication in two (2) national circulation.

12 Approved,