

ASSEMBLY BILL

No. 3320

Introduced by Assembly Member Speier

February 23, 1996

An act to add Section 1730 to the Civil Code, relating to communications information access.

LEGISLATIVE COUNSEL'S DIGEST

AB 3320, as introduced, Speier. Computer bulletin boards: disclosure: penalties.

Existing law imposes specified obligations on telephonic sellers and information-access service businesses, including requirements that they disclose specified information to their customers, such as the name and address of the business.

This bill would require any computer bulletin board, as defined, that charges a fee for access to the bulletin board to disclose the mailing address, location, and telephone number of the bulletin board to participants, and to register with the Department of Justice, as specified. The bill would impose civil penalties for a violation of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1730 is added to the Civil Code,
2 to read:

1 1730. (a) Any computer bulletin board that charges
2 a fee for access to the bulletin board shall maintain and
3 disclose to participants all of the following:

4 (1) A mailing address.

5 (2) The location where the bulletin board is operated.

6 (3) A telephone number where voice communications
7 are available during reasonable business hours.

8 (b) (1) It shall be unlawful to operate a computer
9 bulletin board that charges a fee for access to the bulletin
10 board in this state, unless the computer bulletin board is
11 registered with the Department of Justice as provided in
12 this subdivision within 10 days after providing access to
13 the bulletin board for a fee to any person in this state.

14 (2) The registration shall include the following
15 information:

16 (A) The name and mailing address of the computer
17 bulletin board including corporate identity, if any, and
18 the name and address of the computer bulletin board's
19 agent for service of process within the state.

20 (B) The location where the bulletin board is operated.

21 (C) A telephone number where voice
22 communications are available during reasonable business
23 hours.

24 (3) The registration shall be accompanied by a fee in
25 the amount of fifty dollars (\$50).

26 (c) (1) Any person who violates any provision of this
27 section shall be liable for a civil penalty not to exceed two
28 thousand five hundred dollars (\$2,500) for each violation,
29 which shall be assessed and recovered in a civil action
30 brought in the name of the people of the State of
31 California by the Attorney General or by any district
32 attorney, county counsel, or city attorney in any court of
33 competent jurisdiction.

34 (2) The court shall impose a civil penalty for each
35 violation of this section. In assessing the amount of the
36 civil penalty, the court shall consider any one or more of
37 the relevant circumstances presented by any of the
38 parties to the case, including, but not limited to, the
39 following: the nature and seriousness of the misconduct,
40 the number of violations, the persistence of the



1 misconduct, the length of time over which the
2 misconduct occurred, the willfulness of the defendant's
3 misconduct, and the defendant's assets, liabilities, and net
4 worth.

5 (3) If the action is brought by the Attorney General,
6 one-half of the penalty collected shall be paid to the
7 treasurer of the county in which the judgment was
8 entered, and one-half to the Treasurer. If brought by a
9 district attorney or county counsel, the entire amount of
10 penalty collected shall be paid to the treasurer of the
11 county in which the judgment was entered. If brought by
12 a city attorney or city prosecutor, one-half of the penalty
13 shall be paid to the treasurer of the county and one-half
14 to the city.

15 (d) As used in this section, "computer bulletin board"
16 means a computer containing information that members
17 of the public may select and transfer to their computer by
18 initiating a connection between their computer and the
19 bulletin board by public telephone lines. The information
20 may include, but is not limited to, information created by
21 or made available to the operator of the bulletin board,
22 information submitted by persons using the bulletin
23 board, and messages created for transfer solely to an
24 individual or limited number of recipients.

25 (e) The following are not computer bulletin boards
26 within the meaning of this section:

27 (1) Any service that is not available to members of the
28 public over public telephone lines.

29 (2) Any service intended solely for the use of
30 employees of the operator of the bulletin board.

31 (3) The transfer of information between individuals
32 on an occasional basis where the computer containing the
33 information is not generally accessible to the public.

