

AMENDED IN ASSEMBLY MARCH 12, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1676**

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**Introduced by Assembly Member Bowen**  
*(Coauthors: Assembly Members Brown, Campbell, Kuehl,  
Leach, Martinez, and Mazzone)*  
*(Coauthors: Senators Dills, Karnette, O'Connell, Solis,  
Vasconcellos, and Watson)*

January 14, 1998

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An act to amend Section 17538.4 of the Business and Professions Code, relating to advertising.

LEGISLATIVE COUNSEL'S DIGEST

AB 1676, as amended, Bowen. Advertising: electronic mail.

Existing law prohibits a person conducting business in this state from faxing unsolicited advertising material, unless certain conditions are satisfied.

This bill would expand that prohibition to include the transmission of unsolicited advertising by electronic mail, and would make several related changes.

Existing law provides for the regulation of advertising and provides that a violation of those provisions is a crime. This bill, by creating additional prohibitions with regard to advertising, would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated

by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 17538.4 of the Business and  
2 Professions Code is amended to read:

3 17538.4. (a) No person or entity conducting business  
4 in this state shall fax or cause to be faxed, or electronically  
5 mail or cause to be electronically mailed, documents  
6 consisting of unsolicited advertising material for the  
7 lease, sale, rental, gift offer, or other disposition of any  
8 realty, goods, services, or extension of credit unless that  
9 person or entity establishes a toll-free telephone number  
10 which a recipient of the unsolicited faxed or  
11 electronically mailed documents may call to notify the  
12 sender not to fax or electronically mail the recipient any  
13 further unsolicited documents.

14 (b) All unsolicited faxed or electronically mailed  
15 documents subject to this section shall include a  
16 statement, in at least 9-point type, informing the  
17 recipient of the toll-free telephone number the recipient  
18 may call, and a valid return address to which the recipient  
19 may write or electronically mail, as the case may be,  
20 notifying the sender not to fax or electronically mail the  
21 recipient any further unsolicited documents to the fax  
22 number, or numbers, or electronic mail address, or  
23 addresses, specified by the recipient.

24 (c) Upon notification by a recipient of his or her  
25 request not to receive any further unsolicited faxed or  
26 electronically mailed documents, no person or entity  
27 conducting business in this state shall fax or cause to be  
28 faxed or electronically mail or cause to be electronically  
29 mailed any unsolicited documents to that recipient.



1 (d) Any violation of subdivision (c) is an infraction  
2 punishable by a fine of five hundred dollars (\$500) for  
3 each and every transmission.

4 (e) As used in this section, “fax” or “cause to be faxed”  
5 or “electronically mail” or “cause to be electronically  
6 mailed” shall not include or refer to the transmission of  
7 any documents by a telecommunications utility or  
8 Internet service provider to the extent that the  
9 telecommunications utility or Internet service provider  
10 merely carries that transmission over its network.

11 SEC. 2. No reimbursement is required by this act  
12 pursuant to Section 6 of Article XIII B of the California  
13 Constitution because the only costs that may be incurred  
14 by a local agency or school district will be incurred  
15 because this act creates a new crime or infraction,  
16 eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section  
18 17556 of the Government Code, or changes the definition  
19 of a crime within the meaning of Section 6 of Article  
20 XIII B of the California Constitution.

21 Notwithstanding Section 17580 of the Government  
22 Code, unless otherwise specified, the provisions of this act  
23 shall become operative on the same date that the act  
24 takes effect pursuant to the California Constitution.

