742



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 742

Introduced by Hon. Joseph Emilio A. Abaya

EXPLANATORY NOTE

A practice which has become prevalent especially in today's business world is the maintenance of "mailing lists", which enables establishments to keep track of their clients and valued customers. An undesirable consequence of this practice, however, is the distribution, circulation, and even the sale of these mailing lists to other entities without the prior knowledge and consent of the people whose names and addresses appear in the list.

For this reason, it is not unusual to find in one's mail various solicitations and product offerings from companies. Some companies even go as far as pestering potential customers with phone calls. All these junk mails and unwanted calls not only expose such potential customers to inconveniences like unwanted credit cards and even to some potential risks, but more importantly, constitute intrusions on a person's right to privacy.

The right to privacy is recognized and protected by our Constitution and even in our laws, such as in the New Civil Code, which provides that "every person shall respect the dignity and personality, privacy and peace of mind of his neighbors and other persons," and punishes as an actionable wrong the acts of meddling and prying into the privacy of others.

Undoubtedly, the circulation, distribution and commercialization of "mailing lists" has become rampant and unregulated. But in the light of present laws, legal principles and jurisprudence, it appears that said act of circulating mailing lists is not an actionable wrong as a violation of one's legal rights.

Although the people whose names, addresses and other personal data have been released without their prior permission feel victimized and their privacy unduly invaded, those engaged in "mailing lists" circulation and "junk mail" distribution assert that they are serving legitimate commercial purposes. Further, they assert that a person receiving "junk mails" may choose to discard, and not read, much less act on, the same.

Such argument, however, is like putting the cart before the horse, for the point is not that a person has received "junk mail", but precisely because personal information he has given in confidence has been unduly disclosed and distributed to third parties without his prior consent and approval.

To balance the interests of persons pursuing legitimate commerce and the right of a person to his own privacy, this representation believes that Article 26 of the New Civil Code should be amended to include as an actionable wrong the circulation of mailing lists for commercial purposes without the prior approval of persons whose names have been disclosed.

In the light of the foregoing, immediate approval of this bill is thus earnestly sought.

JOSEPH EMILIO A. ABAYA

assembled:

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AN ACT
AMENDING ARTICLE 26 OF THE NEW CIVIL CODE TO INCLUDE AS ACTIONABLE WRONG THE DISCLOSURE OR DISSEMINATION TO THIRD PARTIES A MAILING LIST OF PERSONAL INFORMATION OF PERSONS GIVEN IN CONFIDENCE

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

Section 1. Article 26 of the New Civil Code is hereby amended to read as follows:

"Every person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons. The following and similar acts, though they may not constitute a criminal offense, shall produce a cause of action for damages, prevention and other relief:

1. Prying into the privacy of another's residence;

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5. DISCLOSING, DISTRIBUTING, CIRCULATING AND/OR TRANSMITTING, WITH OR WITHOUT CONSIDERATION, TO THIRD PARTIES THROUGH A MAILING LIST USED FOR COMMERCIAL PURPOSES PERSONAL INFORMATION GIVEN BY ANOTHER, INCLUDING, BUT NOT LIMITED TO, THE PERSON'S NAME, RESIDENTIAL/BUSINESS ADDRESS AND CONTACT INFORMATION, WHICH INFORMATION IS PRESUMED TO HAVE BEEN GIVEN IN CONFIDENCE."

Section 2. In paragraph five (5) of the preceding section, the information shall be presumed to have been given in confidence if the person whose personal information sought to be disclosed has not impliedly or expressly given his consent.

In said case, the person whose personal information has been given in confidence shall have an actionable wrong both against the disclosee and the discloser.

Section 3. This Act shall take effect after fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,