

## **BILL ANALYSIS**

Senate Research Center

S.B. 83  
By: Hughes  
State Affairs  
8/27/2021  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 83 prohibits an email service provider from selectively limiting the user's receipt of certain emails based on the content of those emails unless the email contains other certain offensive or dangerous content or the limitation or impediment is provided for under other law.

As proposed, S.B. 83 amends current law relating to certain interference with electronic mail messages.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the heading to Chapter 321, Business & Commerce Code, to read as follows:

#### CHAPTER 321. REGULATION OF ELECTRONIC MAIL

SECTION 2. Amends Subchapter B, Chapter 321, Business & Commerce Code, by adding Section 321.054, as follows:

Sec. 321.054. IMPEDING ELECTRONIC MAIL MESSAGES PROHIBITED. Prohibits an electronic mail service provider from intentionally impeding the transmission of another person's electronic mail message based on content unless:

(1) the provider is authorized to block the transmission under Section 321.114 (Authority to Block Certain Commercial Electronic Mail Messages; Qualified Immunity); or

(2) the message contains a computer virus, as defined by Section 33.01 (Definitions), Penal Code, obscene material, material depicting sexual conduct, or material that violates other law.

SECTION 3. Amends Section 321.105(a), Business & Commerce Code, as follows:

(a) Authorizes a person injured by a violation of Chapter 321 (Regulation of Certain Electronic Mail) arising from the transmission of an unsolicited or commercial electronic mail message or by a violation of Section 321.054, rather than by a violation of Chapter 321 arising from the transmission of an unsolicited or commercial electronic mail message, in lieu of actual damages, to recover an amount equal to the lesser of:

(1) \$10 for each unlawful message or each message unlawfully impeded, as applicable, rather than \$10 for each unlawful message; or

(2) \$25,000 for each day the unlawful message is received or the message is unlawfully impeded, as applicable, rather than \$25,000 for each day the unlawful message is received.

SECTION 4. Effective date: the 91st day after the last day of the legislative session.