
By: **Senators Miller, Teitelbaum, and Hogan**
Introduced and read first time: January 24, 2000
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Unsolicited Commercial Electronic Mail - Fraudulent Information**

3 FOR the purpose of prohibiting a person from knowingly falsifying or forging certain
4 information in connection with the transmission of certain types of electronic
5 mail through or into certain computers and computer networks; prohibiting a
6 person from knowingly selling, giving, distributing, or possessing with a certain
7 intent certain types of computer software; authorizing certain injured persons to
8 bring a civil action against a person that violates this Act under certain
9 circumstances; providing certain injured persons specified civil remedies in
10 certain circumstances; providing that a person who violates this Act is guilty of
11 a misdemeanor and is subject to certain punishment; providing for the effect of
12 this Act; defining certain terms; and generally relating to the criminal use of
13 fraudulent information in sending unsolicited commercial electronic mail.

14 BY adding to
15 Article 27 - Crimes and Punishments
16 Section 555D
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1999 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article 27 - Crimes and Punishments**

22 555D.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
24 INDICATED.

25 (2) "COMPUTER", "COMPUTER NETWORK", AND "COMPUTER SOFTWARE"
26 HAVE THE MEANINGS INDICATED IN ARTICLE 27, § 146 OF THE CODE.

27 (3) "ELECTRONIC MAIL" HAS THE MEANING INDICATED IN ARTICLE 27, §
28 555C OF THE CODE.

1 (4) "ELECTRONIC MAIL SERVICE PROVIDER" MEANS A PERSON THAT:

2 (I) IS AN INTERMEDIARY IN SENDING OR RECEIVING ELECTRONIC
3 MAIL; AND

4 (II) PROVIDES TO ELECTRONIC MAIL SERVICE SUBSCRIBERS THE
5 ABILITY TO SEND OR RECEIVE ELECTRONIC MAIL.

6 (5) "ELECTRONIC MAIL SERVICE SUBSCRIBER" MEANS A PERSON THAT
7 IS AN END-USER OF ELECTRONIC MAIL SERVICES.

8 (6) (I) "UNSOLICITED COMMERCIAL ELECTRONIC MAIL" MEANS
9 ELECTRONIC MAIL THAT:

10 1. CONTAINS COMMERCIAL MATERIAL; AND

11 2. IS SENT TO AN ADDRESS WITHOUT THE CONSENT OF AN
12 ADDRESSEE.

13 (II) "UNSOLICITED COMMERCIAL ELECTRONIC MAIL" DOES NOT
14 INCLUDE ELECTRONIC MAIL SENT BY AN ORGANIZATION TO A MEMBER OF THE
15 ORGANIZATION.

16 (B) A PERSON MAY NOT KNOWINGLY FALSIFY OR FORGE ELECTRONIC MAIL
17 TRANSMISSION INFORMATION OR OTHER ROUTING INFORMATION IN CONNECTION
18 WITH THE TRANSMISSION OF UNSOLICITED COMMERCIAL ELECTRONIC MAIL
19 THROUGH OR INTO A COMPUTER OR COMPUTER NETWORK OF AN ELECTRONIC MAIL
20 SERVICE PROVIDER OR AN ELECTRONIC MAIL SERVICE SUBSCRIBER.

21 (C) A PERSON MAY NOT KNOWINGLY SELL, GIVE, DISTRIBUTE, OR POSSESS
22 WITH THE INTENT TO SELL, GIVE, OR DISTRIBUTE COMPUTER SOFTWARE THAT:

23 (1) IS PRIMARILY DESIGNED OR PRODUCED TO FACILITATE OR ENABLE
24 THE FALSIFICATION OF ELECTRONIC MAIL TRANSMISSION INFORMATION OR OTHER
25 ROUTING INFORMATION;

26 (2) HAS ONLY LIMITED COMMERCIAL PURPOSE OR USE
27 OTHER THAN TO FACILITATE OR ENABLE THE FALSIFICATION OF ELECTRONIC MAIL
28 TRANSMISSION INFORMATION OR OTHER ROUTING INFORMATION; OR

29 (3) IS MARKETED BY THE PERSON, OR ANOTHER ACTING IN CONCERT
30 WITH THE PERSON WITH THE PERSON'S KNOWLEDGE, FOR USE IN FACILITATING OR
31 ENABLING THE FALSIFICATION OF ELECTRONIC MAIL TRANSMISSION INFORMATION
32 OR OTHER ROUTING INFORMATION.

33 (D) (1) A PERSON THAT IS INJURED BY A VIOLATION OF THIS SECTION MAY
34 BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST A
35 PERSON THAT VIOLATES THIS SECTION.

1 (2) AS A RESULT OF A SUCCESSFUL CIVIL ACTION UNDER PARAGRAPH
2 (1) OF THIS SUBSECTION, A COURT MAY AWARD AN INJURED PERSON, OTHER THAN
3 THE ELECTRONIC MAIL SERVICE PROVIDER:

4 (I) ATTORNEYS' FEES AND COURT COSTS; AND

5 (II) AT THE ELECTION OF THE INJURED PERSON:

6 1. ACTUAL DAMAGES; OR

7 2. THE LESSER OF:

8 A. \$10 FOR EACH UNSOLICITED COMMERCIAL ELECTRONIC
9 MAIL MESSAGE TRANSMITTED IN VIOLATION OF THIS SECTION; OR

10 B. \$25,000 FOR EACH DAY THAT A VIOLATION OCCURRED.

11 (3) AS A RESULT OF A SUCCESSFUL CIVIL ACTION UNDER PARAGRAPH
12 (1) OF THIS SUBSECTION, A COURT MAY AWARD AN INJURED ELECTRONIC MAIL
13 SERVICE PROVIDER:

14 (I) ATTORNEYS' FEES AND COURT COSTS; AND

15 (II) AT THE ELECTION OF THE INJURED ELECTRONIC MAIL
16 SERVICE PROVIDER:

17 1. ACTUAL DAMAGES; OR

18 2. THE GREATER OF:

19 A. \$10 FOR EACH UNSOLICITED COMMERCIAL ELECTRONIC
20 MAIL MESSAGE TRANSMITTED IN VIOLATION OF THIS SECTION; OR

21 B. \$25,000 FOR EACH DAY THAT A VIOLATION OCCURRED.

22 (E) A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
23 AND ON CONVICTION IS SUBJECT TO, FOR EACH VIOLATION, A FINE NOT EXCEEDING
24 \$500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

25 (F) THIS SECTION DOES NOT CREATE A CAUSE OF ACTION FOR AN
26 ELECTRONIC MAIL SERVICE SUBSCRIBER AGAINST AN ELECTRONIC MAIL SERVICE
27 PROVIDER THAT MERELY TRANSMITS UNSOLICITED COMMERCIAL ELECTRONIC
28 MAIL OVER ITS COMPUTER NETWORK.

29 (G) THIS SECTION DOES NOT PRECLUDE A COURT FROM AWARDING
30 REMEDIES AVAILABLE UNDER OTHER PROVISIONS OF THE CODE IN ADDITION TO
31 THOSE AWARDED UNDER THIS SECTION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2000.