
By: **Delegates Doory and Bohanan**
Introduced and read first time: January 23, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of making it a misdemeanor to initiate, conspire in, or assist in the
4 transmission of certain commercial electronic mail that is from a certain
5 computer or is sent to a certain electronic mail address and that contains certain
6 unauthorized, misleading, or false information; specifying a certain
7 presumption; authorizing an interactive computer service provider to block
8 certain commercial electronic mail in a certain way; prohibiting a certain
9 interactive computer service provider from being held liable for certain actions;
10 specifying a scope for certain provisions; imposing certain penalties; specifying
11 that a certain violation is an unfair and deceptive trade practice and subject to
12 a certain provision; defining certain terms; and generally relating to commercial
13 electronic mail.

14 BY renumbering

15 Article - Criminal Law
16 Section 3-806
17 to be Section 3-807
18 Annotated Code of Maryland
19 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
20 2002)

21 BY adding to

22 Article - Criminal Law
23 Section 3-806
24 Annotated Code of Maryland
25 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
26 2002)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
28 MARYLAND, That Section(s) 3-806 of Article - Criminal Law of the Annotated Code
29 of Maryland be renumbered to be Section(s) 3-807.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Criminal Law**

4 3-806.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) (I) "COMMERCIAL ELECTRONIC MAIL" MEANS ELECTRONIC MAIL
8 THAT ADVERTISES REAL PROPERTY, GOODS, OR SERVICES FOR SALE OR LEASE.

9 (II) "COMMERCIAL ELECTRONIC MAIL" DOES NOT INCLUDE
10 ELECTRONIC MAIL TO WHICH AN INTERACTIVE COMPUTER SERVICE PROVIDER HAS
11 ATTACHED AN ADVERTISEMENT IN EXCHANGE FOR FREE USE OF AN ELECTRONIC
12 MAIL ACCOUNT.

13 (3) (I) "INTERACTIVE COMPUTER SERVICE PROVIDER" MEANS AN
14 INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT PROVIDES
15 OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A COMPUTER SERVICE.

16 (II) "INTERACTIVE COMPUTER SERVICE PROVIDER" INCLUDES A
17 SERVICE OR SYSTEM THAT PROVIDES ACCESS TO THE INTERNET AND SYSTEMS
18 OPERATED OR SERVICES OFFERED BY A LIBRARY OR EDUCATIONAL INSTITUTION.

19 (B) (1) THIS SECTION DOES NOT APPLY TO AN INTERVENING INTERACTIVE
20 COMPUTER SERVICE PROVIDER THAT HANDLES OR RETRANSMITS A COMMERCIAL
21 ELECTRONIC MESSAGE UNLESS THE INTERACTIVE COMPUTER SERVICE PROVIDER
22 KNOWS OR SHOULD HAVE KNOWN THAT THE PERSON WHO INITIATED THE
23 TRANSMISSION WAS IN APPARENT VIOLATION OF THIS SECTION.

24 (2) A PERSON MAY NOT INITIATE THE TRANSMISSION, CONSPIRE WITH
25 ANOTHER TO INITIATE THE TRANSMISSION, OR ASSIST IN THE TRANSMISSION OF
26 COMMERCIAL ELECTRONIC MAIL THAT:

27 (I) IS FROM A COMPUTER IN THE STATE OR IS SENT TO AN
28 ELECTRONIC MAIL ADDRESS THAT THE SENDER KNOWS OR SHOULD HAVE KNOWN IS
29 HELD BY A RESIDENT OF THE STATE; AND

30 (II) 1. USES A THIRD PARTY'S INTERNET DOMAIN NAME
31 WITHOUT PERMISSION OF THE THIRD PARTY OR CONTAINS FALSE OR MISLEADING
32 INFORMATION ABOUT THE ORIGIN OR THE TRANSMISSION PATH OF THE
33 COMMERCIAL ELECTRONIC MAIL; OR

34 2. CONTAINS FALSE OR MISLEADING INFORMATION IN THE
35 SUBJECT LINE.

36 (C) A PERSON IS PRESUMED TO KNOW THAT THE INTENDED RECIPIENT OF
37 COMMERCIAL ELECTRONIC MAIL IS A RESIDENT OF THE STATE IF THE INFORMATION

1 IS AVAILABLE ON REQUEST FROM THE REGISTRANT OF THE INTERNET DOMAIN
2 NAME CONTAINED IN THE RECIPIENT'S ELECTRONIC MAIL ADDRESS.

3 (D) AN INTERACTIVE COMPUTER SERVICE PROVIDER:

4 (1) MAY BLOCK THE RECEIPT OR TRANSMISSION THROUGH ITS
5 INTERACTIVE COMPUTER SERVICE OF COMMERCIAL ELECTRONIC MAIL THAT IT
6 REASONABLY BELIEVES IS OR WILL BE SENT IN APPARENT VIOLATION OF THIS
7 SECTION; AND

8 (2) MAY NOT BE HELD LIABLE FOR AN ACTION UNDER ITEM (1) OF THIS
9 SUBSECTION THAT IS VOLUNTARILY TAKEN IN GOOD FAITH.

10 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
11 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A
12 FINE NOT EXCEEDING \$500 OR BOTH.

13 (F) A VIOLATION OF THIS SECTION IS AN UNFAIR AND DECEPTIVE TRADE
14 PRACTICE AND IS SUBJECT TO TITLE 13, SUBTITLE 4 OF THE COMMERCIAL LAW
15 ARTICLE.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2002.