
By: **Delegates Pitkin, Bobo, Cadden, Conroy, DeCarlo, Dypski, Heller,
Howard, Hubbard, Kagan, Shank, and ~~Sophocleus~~ Sophocleus,
Bohanan, and Doory**

Introduced and read first time: February 8, 2002
Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 1, 2002

CHAPTER _____

1 AN ACT concerning

2 **Commercial Law - Electronic Mail - ~~Prohibitions~~ Unauthorized, False, or**
3 **Misleading Information**

4 FOR the purpose of prohibiting a person from initiating or conspiring with another
5 person to initiate, or assisting in the transmission of certain commercial
6 electronic mail ~~under certain circumstances; prohibiting a person from assisting~~
7 ~~another person in transmitting a commercial electronic mail message under~~
8 ~~certain circumstances~~ that is from a certain computer or is sent to a certain
9 electronic mail address and that contains unauthorized, misleading, or false
10 information; specifying a certain presumption; authorizing an interactive
11 computer service provider to block certain commercial electronic mail in a
12 certain manner; prohibiting a certain interactive computer service provider
13 from being held liable for certain actions; specifying the scope for certain
14 provisions; providing that a person who violates this Act is liable to certain
15 persons for attorney's fees and certain damages; defining a certain ~~term~~ terms;
16 and generally relating to the transmission of commercial electronic mail.

17 BY adding to
18 Article - Commercial Law
19 Section ~~13-319~~ 14-2901, 14-2902, and 14-2903 to be under the new subtitle
20 "Subtitle 29. Commercial Electronic Mail"
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2001 Supplement)

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

1

Article - Commercial Law

2

SUBTITLE 29. COMMERCIAL ELECTRONIC MAIL.3 ~~13-319. 14-2901.~~

4 (A) ~~IN THIS SECTION, "COMMERCIAL ELECTRONIC MAIL MESSAGE" MEANS A~~
 5 ~~COMMUNICATION SENT OR RECEIVED ELECTRONICALLY OVER A COMPUTER~~
 6 ~~NETWORK ALLEGING TO ADVERTISE A GOOD OR SERVICE. SUBTITLE THE FOLLOWING~~
 7 ~~WORDS HAVE THE MEANINGS INDICATED.~~

8 (B) (1) "COMMERCIAL ELECTRONIC MAIL" MEANS ELECTRONIC MAIL THAT
 9 ADVERTISES REAL PROPERTY, GOODS, OR SERVICES FOR SALE OR LEASE.

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

13 (C) (1) "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 (2) "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 14-2902.

20 ~~(B)~~ (A) ~~THIS SECTION APPLIES TO A COMMERCIAL ELECTRONIC MAIL~~
 21 ~~MESSAGE SENT FROM A COMPUTER LOCATED IN THE STATE OR TO AN ELECTRONIC~~
 22 ~~MAIL ADDRESS THAT THE SENDER KNOWS OR HAS REASON TO KNOW IS HELD BY A~~
 23 ~~RESIDENT OF THE STATE. DOES NOT APPLY TO AN INTERACTIVE COMPUTER SERVICE~~
 24 ~~PROVIDER OR A TELECOMMUNICATION UTILITY TO THE EXTENT THAT THE~~
 25 ~~INTERACTIVE COMPUTER SERVICE PROVIDER OR THE TELECOMMUNICATION~~
 26 ~~UTILITY MERELY HANDLES, RETRANSMITS, OR CARRIES A TRANSMISSION OF~~
 27 ~~COMMERCIAL ELECTRONIC MAIL.~~

28 ~~(C)~~ (B) A PERSON MAY NOT INITIATE ~~OR THE TRANSMISSION,~~ CONSPIRE
 29 WITH ANOTHER PERSON TO INITIATE THE TRANSMISSION, ~~OR ASSIST IN THE~~
 30 TRANSMISSION OF A COMMERCIAL ELECTRONIC MAIL MESSAGE THAT:

31 (1) ~~MISREPRESENTS OR OBSCURES ANY INFORMATION RELATING TO~~
 32 ~~THE POINT OF ORIGIN OR TRANSMISSION PATH OF THE COMMERCIAL ELECTRONIC~~
 33 ~~MAIL MESSAGE; OR~~

34 ~~(2)~~ (2) IS FROM A COMPUTER IN THE STATE OR IS SENT TO AN ELECTRONIC
 35 MAIL ADDRESS THAT THE SENDER KNOWS OR SHOULD HAVE KNOWN IS HELD BY A
 36 RESIDENT OF THE STATE; AND

1 (2) (I) USES A THIRD PARTY'S INTERNET DOMAIN NAME OR
2 ELECTRONIC MAIL ADDRESS WITHOUT THE PERMISSION OF THE THIRD PARTY;

3 (II) CONTAINS FALSE OR MISLEADING INFORMATION ~~IN~~ ABOUT
4 THE SUBJECT LINE ORIGIN OR THE TRANSMISSION PATH OF THE COMMERCIAL
5 ELECTRONIC MAIL; OR

6 (III) CONTAINS FALSE OR MISLEADING INFORMATION IN THE
7 SUBJECT LINE THAT HAS THE CAPACITY, TENDENCY, OR EFFECT OF DECEIVING THE
8 RECIPIENT.

9 (D) ~~A PERSON MAY NOT ASSIST IN THE TRANSMISSION OF A COMMERCIAL~~
10 ~~ELECTRONIC MAIL MESSAGE IF THE PERSON PROVIDING ASSISTANCE KNOWS OR~~
11 ~~CONSCIOUSLY AVOIDS KNOWING THAT THE PERSON INITIATING THE COMMERCIAL~~
12 ~~ELECTRONIC MAIL MESSAGE IS ENGAGED OR INTENDS TO ENGAGE IN ANY ACTIVITY~~
13 ~~THAT VIOLATES THIS TITLE.~~

14 (C) A PERSON IS PRESUMED TO KNOW THAT THE INTENDED RECIPIENT OF
15 COMMERCIAL ELECTRONIC MAIL IS A RESIDENT OF THE STATE IF THE INFORMATION
16 IS AVAILABLE ON REQUEST FROM THE REGISTRANT OF THE INTERNET DOMAIN
17 NAME CONTAINED IN THE RECIPIENT'S ELECTRONIC MAIL ADDRESS.

18 (D) AN INTERACTIVE COMPUTER SERVICE PROVIDER:

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

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

25 14-2903.

26 A PERSON WHO VIOLATES THIS SUBTITLE IS LIABLE FOR REASONABLE
27 ATTORNEY'S FEES AND FOR DAMAGES:

28 (1) TO THE RECIPIENT OF COMMERCIAL ELECTRONIC MAIL, IN AN
29 AMOUNT EQUAL TO THE GREATER OF \$500 OR THE RECIPIENT'S ACTUAL DAMAGES;

30 (2) TO THE THIRD PARTY WITHOUT WHOSE PERMISSION THE THIRD
31 PARTY'S INTERNET DOMAIN NAME OR ELECTRONIC MAIL ADDRESS WAS USED, IN AN
32 AMOUNT EQUAL TO THE GREATER OF \$500 OR THE THIRD PARTY'S ACTUAL DAMAGES;
33 AND

34 (3) TO AN INTERACTIVE COMPUTER SERVICE PROVIDER, IN AN AMOUNT
35 EQUAL TO THE GREATER OF \$1,000 OR THE INTERACTIVE COMPUTER SERVICE
36 PROVIDER'S ACTUAL DAMAGES.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2002.