

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 503
Finance

(Senators Hollinger and Teitelbaum)

Commercial Law - Commercial Electronic Mail

This bill prohibits a person from initiating, conspiring with another person to initiate, or assisting in the transmission of a commercial electronic mail (e-mail) message that does not include in the subject line: (1) "ADV:" as the first four characters for unsolicited commercial e-mail; and (2) "ADV: ADULT" as the first nine characters for sexually explicit commercial e-mail. The bill applies to commercial e-mail messages that are sent from a computer located in Maryland or to an electronic mail address that the sender knows or has reason to know is held by a resident of the State. Violators of these prohibitions are liable to the recipient for: (1) the greater of actual damages or \$10 for each transmission; and (2) reasonable attorney's fees. The bill also prohibits a person from distributing, or possessing with the intent to distribute, software that is: (1) marketed, or primarily designed or produced, to facilitate or enable falsification of commercial e-mail transmission or other routing information; or (2) has only limited other commercial application.

Fiscal Summary

State Effect: Assuming that the Consumer Protection Division receives fewer than 50 complaints per year stemming from this bill, any additional workload could be handled with existing resources.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: A person may not initiate, conspire with another person to initiate, or assist in the transmission of a commercial electronic mail (e-mail) message that: (1) misrepresents or obscures any information relating to the point of origin or transmission path of the message; or (2) contains false or misleading information in the subject line. The prohibition applies to commercial e-mail messages that are sent from a computer located in Maryland or to an e-mail address that the sender knows or has reason to know is held by a resident of the State. Violators are liable to a recipient of the e-mail or a third party without whose permission the third party's domain name or e-mail address was used for attorney's fees and the greater of \$500 or actual damages. Violators are liable to an interactive service provider for attorney's fees and the greater of \$1,000 or actual damages.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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lc/jr

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