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Introduced and read first time: February 9, 2006

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection - Commercial Electronic Mail - Prohibition on**
3 **Obtaining Personally Identifying Information by Misrepresentation**

4 FOR the purpose of prohibiting a person from initiating, conspiring with another
5 person to initiate, or assisting in the transmission of certain commercial
6 electronic mail that solicits, requests, or induces the recipient to provide certain
7 personally identifying information by misrepresenting the identity of the person
8 initiating the transmission; defining a certain term; and generally relating to
9 commercial electronic mail.

10 BY repealing and reenacting, with amendments,

11 Article - Commercial Law
12 Section 14-3001 and 14-3002
13 Annotated Code of Maryland
14 (2005 Replacement Volume)

15 BY repealing and reenacting, without amendments,

16 Article - Commercial Law
17 Section 14-3003
18 Annotated Code of Maryland
19 (2005 Replacement Volume)

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

22 **Article - Commercial Law**

23 14-3001.

24 (a) In this subtitle the following words have the meanings indicated.

1 (b) (1) "Commercial electronic mail" means electronic mail that advertises
2 real property, goods, or services for sale or lease.

3 (2) "Commercial electronic mail" does not include electronic mail to
4 which an interactive computer service provider has attached an advertisement in
5 exchange for free use of an electronic mail account.

6 (c) (1) "Interactive computer service provider" means an information
7 service, system, or access software provider that provides or enables computer access
8 by multiple users to a computer service.

9 (2) "Interactive computer service provider" includes a service or system
10 that provides access to the Internet and systems operated or services offered by a
11 library or educational institution.

12 (D) "PERSONALLY IDENTIFYING INFORMATION" MEANS INFORMATION THAT
13 CAN BE USED TO ACCESS AN INDIVIDUAL'S FINANCIAL ACCOUNTS OR TO OBTAIN
14 GOODS OR SERVICES, INCLUDING AN INDIVIDUAL'S:

15 (1) SOCIAL SECURITY NUMBER;

16 (2) DRIVER'S LICENSE NUMBER;

17 (3) BANK ACCOUNT NUMBER;

18 (4) CREDIT OR DEBIT CARD NUMBER;

19 (5) PERSONAL IDENTIFICATION NUMBER;

20 (6) AUTOMATED OR ELECTRONIC SIGNATURE;

21 (7) UNIQUE BIOMETRIC DATA; OR

22 (8) ACCOUNT PASSWORD.

23 14-3002.

24 (a) This section does not apply to an interactive computer service provider or a
25 telecommunication utility to the extent that the interactive computer service provider
26 or the telecommunication utility merely handles, retransmits, or carries a
27 transmission of commercial electronic mail.

28 (b) A person may not initiate the transmission, conspire with another person
29 to initiate the transmission, or assist in the transmission of commercial electronic
30 mail that:

31 (1) Is from a computer in the State or is sent to an electronic mail
32 address that the sender knows or should have known is held by a resident of the
33 State; and

1 (2) (i) Uses a third party's Internet domain name or electronic mail
2 address without the permission of the third party;

3 (ii) Contains false or misleading information about the origin or the
4 transmission path of the commercial electronic mail; [or]

5 (iii) Contains false or misleading information in the subject line that
6 has the capacity, tendency, or effect of deceiving the recipient; OR

7 (IV) SOLICITS, REQUESTS, OR INDUCES THE RECIPIENT TO PROVIDE
8 PERSONALLY IDENTIFYING INFORMATION BY MISREPRESENTING THE IDENTITY OF
9 THE PERSON INITIATING THE TRANSMISSION.

10 (c) A person is presumed to know that the intended recipient of commercial
11 electronic mail is a resident of the State if the information is available on request
12 from the registrant of the Internet domain name contained in the recipient's
13 electronic mail address.

14 (d) An interactive computer service provider:

15 (1) May block the receipt or transmission through its interactive
16 computer service of commercial electronic mail that it reasonably believes is or will be
17 sent in apparent violation of this section; and

18 (2) May not be held liable for an action under item (1) of this subsection
19 that is voluntarily taken in good faith.

20 14-3003.

21 A person who violates this subtitle is liable for reasonable attorney's fees and for
22 damages:

23 (1) To the recipient of commercial electronic mail, in an amount equal to
24 the greater of \$500 or the recipient's actual damages;

25 (2) To the third party without whose permission the third party's
26 Internet domain name or electronic mail address was used, in an amount equal to the
27 greater of \$500 or the third party's actual damages; and

28 (3) To an interactive computer service provider, in an amount equal to
29 the greater of \$1,000 or the interactive computer service provider's actual damages.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2006.