

1 A bill to be entitled
 2 An act relating to false or misleading electronic mail;
 3 amending s. 668.606, F.S.; providing an exemption from
 4 criminal liability for certain carriers whose equipment
 5 transmits commercial electronic mail messages that violate
 6 s. 668.603, F.S., which prohibits specified actions
 7 relating to transmission of false or misleading
 8 unsolicited commercial electronic mail messages; amending
 9 s. 668.6075, F.S., and renumbering and amending subsection
 10 (2) thereof as s. 668.610, F.S.; providing that remedies
 11 and penalties under the Electronic Mail Communications Act
 12 are cumulative; creating s. 668.608, F.S.; providing
 13 criminal penalties for violations of s. 668.603, F.S.,
 14 which prohibits specified actions relating to transmission
 15 of false or misleading unsolicited commercial electronic
 16 mail messages; providing applicability; providing an
 17 effective date.

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 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Subsection (2) of section 668.606, Florida
 22 Statutes, is amended to read:
 23 668.606 Civil remedies; service provider immunity.--
 24 (2) This part does not create a cause of action or provide
 25 for criminal charges against an interactive computer service,
 26 telephone company, or cable provider whose equipment is used to
 27 transport, handle, or retransmit a commercial electronic mail
 28 message that violates s. 668.603.

29 Section 2. Section 668.6075, Florida Statutes, is amended,
 30 and subsection (2) of that section is renumbered as section
 31 668.610, Florida Statutes, and amended to read:

32 668.6075 Unfair and deceptive trade practices ~~Violations~~
 33 ~~of s. 668.603.~~--

34 (1) A violation of s. 668.603 shall be deemed an unfair
 35 and deceptive trade practice within the meaning of part II of
 36 chapter 501. In addition to any remedies or penalties set forth
 37 in that part, a violator shall be subject to the penalties and
 38 remedies provided for in this part.

39 668.610 Cumulative remedies.--

40 (2) The remedies and criminal penalties of this part are
 41 in addition to remedies and criminal penalties otherwise
 42 available for the same conduct under federal or state law.

43 Section 3. Section 668.608, Florida Statutes, is created
 44 to read:

45 668.608 Criminal violations.--

46 (1) Except as provided in subsection (2), any person who
 47 violates s. 668.603 commits a misdemeanor of the first degree,
 48 punishable as provided in s. 775.082 or s. 775.083.

49 (2) Any person who violates s. 668.603 commits a felony of
 50 the third degree, punishable as provided in s. 775.082, s.
 51 775.083, or s. 775.084, if:

52 (a) The volume of commercial electronic mail messages
 53 transmitted by the person exceeds 10,000 attempted recipients in
 54 any 24-hour period;

55 (b) The volume of commercial electronic mail messages
56 transmitted by the person exceeds 100,000 attempted recipients
57 in any 30-day period;

58 (c) The volume of commercial electronic mail messages
59 transmitted by the person exceeds 1 million attempted recipients
60 in any 1-year period;

61 (d) The revenue generated from a specific commercial
62 electronic mail message transmitted by the person exceeds
63 \$1,000;

64 (e) The total revenue generated from all commercial
65 electronic mail messages transmitted by the person to any
66 electronic mail message service provider or its subscribers
67 exceeds \$50,000;

68 (f) The person knowingly hires, employs, uses, or permits
69 any minor to assist in the transmission of a commercial
70 electronic mail message in violation of s. 668.603; or

71 (g) The person commits a violation otherwise punishable
72 under subsection (1) within a 5-year period after a previous
73 conviction under this section.

74 Section 4. This act shall take effect July 1, 2006, and
75 shall apply to violations committed on or after that date.