

## CHAMBER ACTION

1 The Utilities & Telecommunications Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6                   A bill to be entitled  
7 An act relating to false or misleading electronic mail;  
8 amending s. 668.606, F.S.; providing an exemption from  
9 criminal liability for certain carriers and equipment  
10 providers whose equipment transmits commercial electronic  
11 mail messages that violate s. 668.603, F.S., which  
12 prohibits specified actions relating to transmission of  
13 false or misleading unsolicited commercial electronic mail  
14 messages; amending s. 668.6075, F.S., and renumbering and  
15 amending subsection (2) thereof as s. 668.610, F.S.;  
16 providing that remedies and penalties under the Electronic  
17 Mail Communications Act are cumulative; creating s.  
18 668.608, F.S.; providing criminal penalties for violations  
19 of s. 668.603, F.S., which prohibits specified actions  
20 relating to transmission of false or misleading  
21 unsolicited commercial electronic mail messages; providing  
22 applicability; providing an effective date.  
23

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

25  
26 Section 1. Subsection (2) of section 668.606, Florida  
27 Statutes, is amended to read:

28 668.606 Civil remedies; immunity.--

29 (2) This part does not create a cause of action or provide  
30 for criminal charges against an interactive computer service,  
31 customer premise equipment provider, communications services  
32 provider ~~telephone company~~, or cable provider whose equipment is  
33 used to transport, handle, or retransmit a commercial electronic  
34 mail message that violates s. 668.603.

35 Section 2. Section 668.6075, Florida Statutes, is amended,  
36 and subsection (2) of that section is renumbered as section  
37 668.610, Florida Statutes, and amended to read:

38 668.6075 Unfair and deceptive trade practices ~~Violations~~  
39 ~~of s. 668.603.~~--

40 ~~(1)~~ A violation of s. 668.603 shall be deemed an unfair  
41 and deceptive trade practice within the meaning of part II of  
42 chapter 501. In addition to any remedies or penalties set forth  
43 in that part, a violator shall be subject to the penalties and  
44 remedies provided for in this part.

45 668.610 Cumulative remedies.--

46 ~~(2)~~ The remedies and criminal penalties of this part are  
47 in addition to remedies and criminal penalties otherwise  
48 available for the same conduct under federal or state law.

49 Section 3. Section 668.608, Florida Statutes, is created  
50 to read:

51 668.608 Criminal violations.--

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

55 (2) Any person who violates s. 668.603 commits a felony of  
56 the third degree, punishable as provided in s. 775.082, s.  
57 775.083, or s. 775.084, if:

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

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

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

67 (d) The revenue generated from a specific commercial  
68 electronic mail message transmitted by the person exceeds  
69 \$1,000;

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

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

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

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