

By Senator Aronberg

27-135-06

See HB 45

1 A bill to be entitled

2 An act relating to false or misleading

3 electronic mail; amending s. 668.606, F.S.;

4 providing an exemption from criminal liability

5 for certain carriers whose equipment transmits

6 commercial electronic mail messages that

7 violate s. 668.603, F.S., which prohibits

8 specified actions relating to transmission of

9 false or misleading unsolicited commercial

10 electronic mail messages; amending s. 668.6075,

11 F.S., and renumbering and amending subsection

12 (2) thereof as s. 668.610, F.S.; providing that

13 remedies and penalties under the Electronic

14 Mail Communications Act are cumulative;

15 creating s. 668.608, F.S.; providing criminal

16 penalties for violations of s. 668.603, F.S.,

17 which prohibits specified actions relating to

18 transmission of false or misleading unsolicited

19 commercial electronic mail messages; providing

20 applicability; providing an effective date.

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

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24 Section 1. Subsection (2) of section 668.606, Florida

25 Statutes, is amended to read:

26 668.606 Civil remedies; service provider immunity.--

27 (2) This part does not create a cause of action or

28 provide for criminal charges against an interactive computer

29 service, telephone company, or cable provider whose equipment

30 is used to transport, handle, or retransmit a commercial

31 electronic mail message that violates s. 668.603.

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

4 668.6075 Unfair and deceptive trade practices
5 ~~Violations of s. 668.603.--~~

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

11 668.610 Cumulative remedies.--

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

15 Section 3. Section 668.608, Florida Statutes, is
16 created to read:

17 668.608 Criminal violations.--

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

21 (2) Any person who violates s. 668.603 commits a
22 felony of the third degree, punishable as provided in s.
23 775.082, s. 775.083, or s. 775.084, if:

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

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

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

4 (d) The revenue generated from a specific commercial
5 electronic mail message transmitted by the person exceeds
6 \$1,000;

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

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

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

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