

By the Committees on Commerce and Consumer Services;
Communications and Public Utilities; and Senators Aronberg and
Lynn

577-1961-06

1 A bill to be entitled

2 An act relating to electronic mail; requiring

3 certain governmental entities to post a notice

4 on their websites that electronic mail

5 addresses sent to them are subject to release

6 to the public; amending s. 668.606, F.S;

7 providing an exemption from criminal liability

8 for certain carriers whose equipment transmits

9 commercial electronic mail messages that

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

11 specified actions relating to transmission of

12 false or misleading unsolicited commercial

13 electronic mail messages; amending s. 668.6075,

14 F.S., and renumbering and amending subsection

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

16 remedies and penalties under the Electronic

17 Mail Communications Act are cumulative;

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

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

20 which prohibits specified actions relating to

21 transmission of false or misleading unsolicited

22 commercial electronic mail messages; providing

23 applicability; providing an effective date.

24

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

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27 Section 1. Any agency, as defined in s. 119.011,

28 Florida Statutes, or legislative entity that operates a

29 website and uses electronic mail shall post the following

30 statement in a conspicuous location on its website:

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1 Under Florida law, e-mail addresses are public
2 records. If you do not want your e-mail address
3 released in response to a public-records
4 request, do not send electronic mail to this
5 entity. Instead, contact this office by phone
6 or in writing.

7 Section 2. Subsection (2) of section 668.606, Florida
8 Statutes, is amended to read:

9 668.606 Civil remedies; service provider immunity.--

10 (2) This part does not create a cause of action or
11 provide for criminal charges against an interactive computer
12 service, customer premise equipment provider, communications
13 service provider ~~telephone company~~, or cable provider whose
14 equipment is used to transport, handle, or retransmit a
15 commercial electronic mail message that violates s. 668.603.

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

19 668.6075 Unfair and deceptive trade practices

20 ~~Violations of s. 668.603.--~~

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

26 668.610 Cumulative remedies.--

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

30 Section 4. Section 668.608, Florida Statutes, is
31 created to read:

1 668.608 Criminal violations.--

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

5 (2) Any person who violates s. 668.603 commits a
6 felony of the third degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084, if:

8 (a) The volume of commercial electronic mail messages
9 transmitted by the person exceeds 2,500 attempted recipients
10 in any 24-hour period;

11 (b) The volume of commercial electronic mail messages
12 transmitted by the person exceeds 25,000 attempted recipients
13 in any 30-day period;

14 (c) The volume of commercial electronic mail messages
15 transmitted by the person exceeds 250,000 attempted recipients
16 in any 1-year period;

17 (d) The revenue generated from a specific commercial
18 electronic mail message transmitted by the person exceeds
19 \$1,000;

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

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

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

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1 Section 5. This act shall take effect July 1, 2006,
2 and shall apply to violations committed on or after that date.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 CS/SB 80

7 This committee substitute differs from the committee
8 substitute as filed in that it revises the required statement
9 that state agencies and legislative entities are to post on
10 their websites that state that emails are public records, and
11 conforms the criminal penalties to match federal law.

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