LC00413

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

AN ACT

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS -- ELECTRONIC MAIL FRAUD

Introduced By: Representatives Kennedy, Lewiss, Lally, Shanley, and E Coderre Date Introduced: January 18, 2006 Referred To: House Corporations

It is enacted by the General Assembly as follows:

1	SECTION 1. Title 6 of the General Laws entitled "Commercial Law - General
2	Regulatory Provisions" is hereby amended by adding thereto the following chapter:
3	CHAPTER 48
4	ELECTRONIC MAIL FRAUD
5	6-48.1-1. Short title. – This chapter shall be known and may be cited as the "Electronic
6	Mail Fraud Regulatory Act."
7	6-48.1-2. Legislative findings. – It is hereby found and declared as follows:
8	Consumers are bombarded with electronic communications, often times in a fraudulent
9	attempt to solicit personal and private information. In the interest of protecting the citizens of
10	Rhode Island, it is imperative that the general assembly establish safeguards against such
11	practices. Notwithstanding any provision of the general or public law, rule or regulation, the
12	general assembly shall establish regulations pertaining to the prevention of electronic mail fraud.
13	<u>6-48.1-3. Definitions. – For the purpose of this chapter, the following words and phrases</u>
14	shall have the following meanings:
15	(1) "Assist the transmission" means actions taken by a person to provide substantial
16	assistance or support which enables any person to formulate, compose, send, originate, initiate or
17	transmit a commercial electronic mail message or a commercial electronic text message when the
18	person providing the assistance knows or consciously avoids knowing that the initiator of the

1 <u>commercial electronic mail message or the commercial electronic text message is engaged, or</u>

2 <u>intends to engage, in any practice that violates the consumer protection act.</u>

3 (2) "Commercial electronic mail message" means an electronic mail message sent for the
4 purpose of promoting real property, goods or services for sale or lease. It does not mean an
5 electronic mail message to which an interactive computer service provider has attached an
6 advertisement in exchange for free use of an electronic mail account, when the sender has agreed
7 to such an arrangement.
8 (3) "Commercial electronic text message" means an electronic text message sent to
9 promote real property, goods or services for sale or lease.

(4) "Electronic mail address" means a destination, commonly expressed as a string of
 characters, to which electronic mail may be sent or delivered.

(5) "Electronic mail message" means an electronic message sent to an electronic mail
 address and a reference to an internet domain, whether or not displayed, to which an electronic
 mail message can be sent or delivered.

15 (6) "Electronic text message" means a text message sent to a cellular telephone or pager

16 equipped with short message service or any similar capability, whether the message is initiated as

17 <u>a short message service message or as an electronic mail message.</u>

18 (7) "Initiate the transmission" refers to the action by the original sender of an electronic 19 mail message or an electronic text message, not to the action by any intervening interactive 20 computer service or wireless network that may handle or retransmit the message, unless such 21 intervening interactive computer service assists in the transmission of an electronic mail message 22 when it knows that the person initiating the transmission is engaged, or intends to engage, in any 23 act or practice that violates the consumer protection act.

(8) "Interactive computer service" means any information service, system or access
 software provider that provides or enables computer access by multiple users to a computer
 server, including specifically a service or system that provides access to the internet and such
 systems operated or services offered by libraries or educational institutions.

(9) "Internet" means collectively the myriad of computer and telecommunications
facilities, including equipment and operating software, that comprise the interconnected world
wide network of networks that employ the transmission control protocol/internet protocol or any
predecessor or successor protocols to such protocol, to communicate information of all kinds by
wire or radio.

33 (10) "Internet domain name" refers to globally unique, hierarchical reference to an
 34 Internet host or service, assigned through centralized internet naming authorities, comprising a

1 series of character strings separated by periods, with the right-most string specifying the top of

2 <u>the hierarchy.</u>

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- (11) "Person" means a person, corporation, partnership or association.
- 4 (12) "Personally identifying information" means an individual's: (a) social security
 5 number; (b) driver's license number; (c) bank account number; (d) credit or debit card number; (e)
 6 personal identification number; (f) automated or electronic signature; (g) unique biometric data;
- 7 (h) account passwords; or (i) any other piece of information that can be used to access an
- 8 individual's financial accounts or to obtain goods or services.
- 9 (13) "Web page" means a location, with respect to the world wide web, that has a single
 10 uniform resource locator or other single location with respect to the Internet.
- 11 <u>6-48.1-4. Prohibited activity. No person may solicit, request or take any action to</u> 12 induce another person to provide personally identifying information by means for a web page, 13 electronic mail message or otherwise using the Internet in a manner as previously defined in 14 section 648.1-3, by representing oneself, either directly or by implication, to be a business or 15 individual, without the authority or approval of such business or individual. No person may
- 16 <u>conspire with another person to engage in any act that violates the provisions of this chapter.</u>
- 17 <u>6-48.1-5. Damages. (a) Damages to a consumer resulting from the practices prohibited</u>
- 18 by this chapter are up to five hundred dollars (\$500) per violation, or actual damages, whichever
- 19 <u>is greater.</u>
- 20 (b) A person engaged in the business of providing internet access service to the public, an
- 21 owner of a web page, or trademark owner who is adversely affected by reason of a violation of
- 22 this chapter, may bring an action against a person who violates this chapter to:
- 23 (1) Enjoin further violations of this chapter; and
- 24 (2) Recover the greater of actual damages or five thousand dollars (\$5,000) per violation
 25 of this chapter.
- 26 (c) The court may increase the damages up to three (3) times the damages allowed by this
- 27 section if the defendant has engaged in a pattern and practice of violating this chapter. The court
- 28 <u>may award costs and reasonable attorneys' fees to a prevailing party.</u>
- <u>6-48.1-6. Severability. If any of the provisions of this chapter, or the application of any</u>
 provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or
- 31 the application of the provisions to persons or circumstances other than those to which it is held
- 32 <u>invalid, shall not be affected thereby.</u>

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS -- ELECTRONIC MAIL FRAUD

This act would create a chapter in the general laws to provide protection to consumers

2 from electronic mail fraud.

3 This act would take effect upon passage.

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