

1 commercial electronic mail message or the commercial electronic text message is engaged, or
2 intends to engage, in any practice that violates the consumer protection act.

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.

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

12 (5) "Electronic mail message" means an electronic message sent to an electronic mail
13 address and a reference to an internet domain, whether or not displayed, to which an electronic
14 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 a short message service message or as an electronic mail message.

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.

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

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

3 (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 **6-48.1-4. Prohibited activity.** – No person may solicit, request or take any action to
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 6-48.1-3, 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 conspire with another person to engage in any act that violates the provisions of this chapter.

17 **6-48.1-5. Damages.** – (a) Damages to a consumer resulting from the practices prohibited
18 by this chapter are up to five hundred dollars (\$500) per violation, or actual damages, whichever
19 is greater.

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 may award costs and reasonable attorneys' fees to a prevailing party.

29 **6-48.1-6. Severability.** – If any of the provisions of this chapter, or the application of any
30 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 invalid, shall not be affected thereby.

1 SECTION 2. This act shall take effect upon passage.

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LC00413
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

- 1 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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