

By the Committee on Communications and Public Utilities; and
Senator Aronberg

579-1733-06

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:

26
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:
31

1 E-mail addresses are public records under
2 Florida Law and are not exempt from
3 public-records requirements. If you do not want
4 your e-mail address to be subject to being
5 released pursuant to a public-records request
6 do not send electronic mail to this entity.
7 Instead, contact this office by telephone or in
8 writing, via the United States Postal Service.

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

11 668.606 Civil remedies; service provider immunity.--

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

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

21 668.6075 Unfair and deceptive trade practices

22 ~~Violations of s. 668.603.--~~

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

28 668.610 Cumulative remedies.--

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

1 Section 4. Section 668.608, Florida Statutes, is
2 created to read:

3 668.608 Criminal violations.--

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

7 (2) Any person who violates s. 668.603 commits a
8 felony of the third degree, punishable as provided in s.
9 775.082, s. 775.083, or s. 775.084, if:

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

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

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

19 (d) The revenue generated from a specific commercial
20 electronic mail message transmitted by the person exceeds
21 \$1,000;

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

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

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

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

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 SB 80

10 The Committee Substitute for Senate Bill 80:

11 - Requires that all agencies and legislative entities that
12 operate a website and use electronic mail post a statement on
13 the website that e-mails to those agencies and entities are
14 public record, including the e-mail addresses contained
15 therein; and

16 -Changes the list of entities against whom civil and criminal
17 actions are not to be brought under the Electronic Mail
18 Communications Act, deleting "telephone company" and adding
19 "customer premise equipment provider" and "communications
20 services provider."
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