

Electronic Mail Fraud

This Act directs that no person may solicit, request or take any action to induce another person to provide personally identifying information by means for a web page, electronic mail message or otherwise using the Internet, by representing oneself, either directly or by implication, to be a business or individual, without the authority or approval of such business or individual. No person may conspire with another person to engage in any act that violates the provisions of this Act.

Submitted as:
Rhode Island
Chapter 628 of 2006
Status: Enacted into law in 2006.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as the “Electronic Mail Fraud Regulatory
2 Act.”

3
4 Section 2. [*Legislative Findings.*] Consumers are bombarded with electronic
5 communications, often times in a fraudulent attempt to solicit personal and private information. In
6 the interest of protecting the citizens of this state, it is imperative that the [general assembly]
7 establish safeguards against such practices. Notwithstanding any provision of the general or
8 public law, rule or regulation, the [general assembly] shall establish regulations pertaining to the
9 prevention of electronic mail fraud.

10
11 Section 3. [*Definitions.*] As used in this Act:

12 (1) “Assist the transmission” means actions taken by a person to provide substantial
13 assistance or support which enables any person to formulate, compose, send, originate, initiate or
14 transmit a commercial electronic mail message or a commercial electronic text message when the
15 person providing the assistance knows that the initiator of the commercial electronic mail
16 message or the commercial electronic text message is engaged, or intends to engage, in any
17 practice that violates the [state Consumer Protection Act].

18 (2) “Commercial electronic mail message” means an electronic mail message sent for the
19 purpose of promoting real property, goods or services for sale or lease. It does not mean an
20 electronic mail message to which an interactive computer service provider has attached an
21 advertisement in exchange for free use of an electronic mail account, when the sender has agreed
22 to such an arrangement.

23 (3) “Commercial electronic text message” means an electronic text message sent to
24 promote real property, goods or services for sale or lease.

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

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

30 (6) “Electronic text message” means a text message sent to a cellular telephone or pager
31 equipped with short message service or any similar capability, whether the message is initiated as
32 a short message service message or as an electronic mail message.

33 (7) “Initiate the transmission” refers to the action by the original sender of an electronic
34 mail message or an electronic text message, not to the action by any intervening interactive
35 computer service or wireless network that may handle or retransmit the message, unless such
36 intervening interactive computer service assists in the transmission of an electronic mail message
37 when it knows that the person initiating the transmission is engaged, or intends to engage, in any
38 act or practice that violates the [state Consumer Protection Act].

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

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

48 (10) “Internet domain name” refers to globally unique, hierarchical reference to an
49 Internet host or service, assigned through centralized internet naming authorities, comprising a
50 series of character strings separated by periods, with the right-most string specifying the top of
51 the hierarchy.

52 (11) “Person” means a person, corporation, partnership or association.

53 (12) “Personally identifying information” means an individual’s:

- 54 (a) social security number;
- 55 (b) driver’s license number;
- 56 (c) bank account number;
- 57 (d) credit or debit card number;
- 58 (e) personal identification number;
- 59 (f) automated or electronic signature;
- 60 (g) unique biometric data;
- 61 (h) account passwords; or
- 62 (i) any other piece of information that can be used to access an individual’s
63 financial accounts or to obtain goods or services.

64 (13) “Web page” means a location, with respect to the world wide web, that has a single
65 uniform resource locator or other single location with respect to the Internet.

66
67 Section 4. [*Prohibited Activity.*] No person may solicit, request or take any action to
68 induce another person to provide personally identifying information by means of a Web page,
69 electronic mail message or otherwise using the Internet in a manner as previously defined in
70 [insert citation], by representing oneself, either directly or by implication, to be a business or
71 individual, without the authority or approval of such business or individual. No person may
72 conspire with another person to engage in any act that violates the provisions of this Act.

73
74 Section 5. [*Damages.*]

75 (a) Damages to a consumer resulting from the practices prohibited by this Act are up to
76 [five hundred dollars (\$500)] per violation, or actual damages, whichever is greater.

77 (b) A person engaged in the business of providing Internet access service to the public, an
78 owner of a Web page, or trademark owner who is adversely affected by reason of a violation of
79 this Act, may bring an action against a person who violates this Act to:

80 (1) enjoin further violations of this Act; and
81 (2) recover the greater of actual damages or [five thousand dollars (\$5,000)] per
82 violation of this Act.

83 (c) The court may increase the damages up to [three (3)] times the damages allowed by
84 this section if the defendant has engaged in a pattern and practice of violating this Act. The court
85 may award costs and reasonable attorneys' fees to a prevailing party.

86
87 Section 6. [*Severability*.] [Insert severability clause.]

88
89 Section 7. [*Repealer*.] [Insert repealer clause.]

90
91 Section 8. [*Effective Date*.] [Insert effective date.]