

(6) A PERSON WHO VIOLATES ~~SUBSECTION (B)~~ SUBSECTION (B)(1), (2), (3), (4), OR (5) OF THIS SECTION IN FURTHERANCE OF A FELONY, OR WHO HAS PREVIOUSLY BEEN CONVICTED OF AN OFFENSE UNDER THE LAWS OF THIS STATE, ANOTHER STATE, OR UNDER ANY FEDERAL LAW INVOLVING THE TRANSMISSION OF MULTIPLE COMMERCIAL ELECTRONIC MAIL MESSAGES IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.

(7) A PERSON WHO VIOLATES SUBSECTION (B)(6) OR (7) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(D) IN ADDITION TO ANY OTHER SENTENCE AUTHORIZED BY LAW, THE COURT MAY DIRECT THAT A PERSON CONVICTED OF A VIOLATION OF THIS SECTION FORFEIT TO THE STATE:

(1) ANY MONEYS AND OTHER INCOME, INCLUDING ALL PROCEEDS EARNED BUT NOT YET RECEIVED BY A DEFENDANT FROM A THIRD PARTY AS A RESULT OF THE DEFENDANT'S VIOLATION OF THIS SECTION; AND

(2) ALL COMPUTER EQUIPMENT, COMPUTER SOFTWARE, AND PERSONAL PROPERTY USED IN CONNECTION WITH A VIOLATION OF THIS SECTION KNOWN BY THE OWNER TO HAVE BEEN USED IN VIOLATION OF THIS SECTION.

(E) (1) AN ACTION BROUGHT UNDER THIS SUBSECTION SHALL BE COMMENCED WITHIN 2 YEARS AFTER THE COMMISSION OF THE ACT.

(2) THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION ~~IN A CIRCUIT COURT OR THE DISTRICT COURT~~ AGAINST A PERSON WHO VIOLATES THIS SECTION TO RECOVER ~~FOR THE STATE~~ A CIVIL PENALTY NOT EXCEEDING:

(I) \$25,000 PER DAY OF VIOLATION; OR

(II) NOT LESS THAN \$2 NOR MORE THAN \$8 PER COMMERCIAL ELECTRONIC MAIL MESSAGE INITIATED IN VIOLATION OF THIS SECTION.

(3) THE ATTORNEY GENERAL MAY SEEK AN INJUNCTION IN A CIVIL ACTION TO PROHIBIT A PERSON WHO HAS ENGAGED IN OR IS ENGAGED IN A VIOLATION OF THIS SECTION FROM ENGAGING IN THE VIOLATION.

(4) THE ATTORNEY GENERAL MAY ENFORCE CRIMINAL VIOLATIONS OF THIS SECTION IN A CIRCUIT COURT OR DISTRICT COURT.

(F) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO HAVE ANY EFFECT ON THE LAWFULNESS OF THE ADOPTION, IMPLEMENTATION, OR ENFORCEMENT BY AN ELECTRONIC MAIL SERVICE PROVIDER OF A POLICY OF DECLINING TO TRANSMIT, ROUTE, RELAY, HANDLE, OR STORE CERTAIN TYPES OF ELECTRONIC MAIL MESSAGES UNDER ANY OTHER PROVISION OF LAW.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004.

Approved May 26, 2004.