

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 28.
COMMERCIAL INSTRUMENTS AND
TRANSACTIONS.

CHAPTER 50.
ELECTRONIC MAIL SPAM DETERRENCE.

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DETERRENCE.

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CHAPTER 50. ELECTRONIC MAIL SPAM DETERRENCE.

§ 28-5001. DEFINITIONS.

For the purposes of this chapter, the term:

(1) "Assist in the transmission" means actions taken by a person to procure, enable, finance, or otherwise actively support the transmission of a commercial electronic mail message by another person, if the person or entity providing the assistance knows or should have known that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any practice that violates this chapter. The term "assist in the transmission" shall not include activities of any person or entity related to the design, manufacture, or distribution of any technology, product, or component that has a commercially significant use other than to violate or circumvent this chapter.

(2) "Commercial electronic mail message" means an electronic mail message sent for the purpose of encouraging the purchase, rental of, or investment in, property, goods, intangibles, or services.

(3) "Electronic mail" means an electronic message or computer file containing an image of a message that is transmitted between 2 or more computers, electronic terminals, or cellular telephones, and includes electronic messages that are transmitted within or between computer networks.

(4) "Electronic mail service provider" means any entity that is an intermediary in sending or receiving electronic mail or that provides to end-users of electronic mail services the ability to send or receive electronic mail.

(5) "Header information" means the source, destination, and routing information attached to an electronic mail message, including the originating domain name and originating electronic mail address, and any other information that appears in the line identifying, or purporting to identify, a person initiating the message.

(Sept. 11, 2008, D.C. Law 17-230, § 2, 55 DCR 8311; Mar. 25, 2009, D.C. Law 17-353, §§ 245(b), (e), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-353 validated previously made technical corrections in the section designation, the introductory language, and par. (1).

Legislative History of Laws

Law 17-230, the "Spam Deterrence Act of 2008", was introduced in Council and assigned Bill No. 17-34, which was referred to the Committee of Public Service and Consumer Affairs. The Bill was adopted on first and second readings on June 3, 2008, and July 1, 2008, respectively. Signed by the Mayor on July 17, 2008, it was assigned Act No. 17-450 and transmitted to both Houses of Congress for its review. D.C. Law 17-230 became effective on September 11, 2008.

For Law 17-353, see notes following § 28-3151.

§ 28-5002. PROHIBITIONS.

(a) A person or entity shall not:

(1) Transmit, or assist in the transmission of, a commercial electronic mail message that:

(A) Falsely identifies electronic mail transmission information, including header information, or other routing information; or

(B) Contains false or misleading information in the subject line; or

(2) Transmit, or assist in the transmission of, a commercial electronic mail message using a third

party's Internet address, domain name, or identity without the third party's consent for the purpose of transmitting electronic mail in a manner that makes it appear that the third party was the sender of the message or that results in responses to the message being directed to the third party.

(b) The prohibitions contained in this section shall apply to any person or entity who transmits, or who assists in the transmission of, a commercial electronic mail message:

- (1) From a computer located in the District of Columbia;
- (2) To an electronic mail address held by a resident of the District of Columbia;
- (3) To an electronic mail service provider with equipment or its principal place of business in the District of Columbia; or
- (4) To a domain name registered to a resident of the District of Columbia.

(Sept. 11, 2008, D.C. Law 17-230, § 3, 55 DCR 8311; Mar. 25, 2009, D.C. Law 17-353, § 245(c), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-353 validated a previously made technical correction in the section designation.

Legislative History of Laws

For Law 17-230, see notes following § 28-5001.

For Law 17-353, see notes following § 28-3151.

§ 28-5003. CIVIL RELIEF; DAMAGES.

(a)(1) Any person or entity who receives an electronic mail message that violates a provision of this chapter, whose equipment is used in the transmission or receipt of such a message, or whose property or person is otherwise injured by reason of a violation of a provision of this chapter may seek recovery for any damages sustained and the costs of suit. For the purposes of this section, damages shall include the loss of profits.

(2) In addition to the relief provided in subsection (a) of this section, a person, other than an electronic mail service provider, shall also recover attorneys' fees and costs, and may recover, in addition to actual damages, liquidated damages of \$500 for each commercial electronic mail message transmitted in violation of this chapter or \$50,000 per day, whichever is less.

(3) In addition to the relief provided in subsection (a) of this section, an electronic mail service provider may also recover attorneys' fees and costs, and may elect, in addition to actual damages, to recover liquidated damages of \$100 for each commercial electronic mail message transmitted in violation of this chapter or \$500,000 per day, whichever is less.

(b) At the request of any party to an action brought pursuant to this section, the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved to prevent possible recurrence of the same or similar act by another person and to protect any trade secrets of any party.

(c) Nothing in this chapter shall be construed to:

(1) Require a provider of Internet access service to block, transmit, route, relay, handle, or store certain types of electronic mail messages;

(2) Prevent or limit, in any way, a provider of Internet access service from adopting a policy regarding commercial or other electronic mail, including a policy of declining to transmit certain types of electronic mail messages, or from enforcing such policy through technical means, through contract, or pursuant to any remedy available under any other provision of federal or District law; or

(3) Render lawful any such policy that is unlawful under any other provision of law.

(d) The Attorney General of the District of Columbia may enforce the provisions of this chapter pursuant to authority granted in § 28-3909.

(Sept. 11, 2008, D.C. Law 17-230, § 4, 55 DCR 8311; Mar. 25, 2009, D.C. Law 17-353, § 245(d), (e), (f), 56 DCR 1117.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 17-353 validated previously made technical corrections in the section designation, subsecs. (a), (c), and (d).

Legislative History of Laws

For Law 17-230, see notes following § 28-5001.

For Law 17-353, see notes following § 28-3151.