

# NEVADA

Sections 41.705 through 41.735 of the *Nevada Revised Statutes* govern the transmission of commercial electronic mail. Those code sections:

- Require a sender of unsolicited email to clearly identify oneself and clearly identify the email as an advertisement;
- Forbid a sender to disguise the source of an email or put false information in its subject line or return address;
- Make it illegal to obtain another person's email address without authorization;
- Require a sender to provide a mechanism by which a recipient can ask not to be contacted, and forbids the sending of email to a person who has asked not to be contacted; and
- Entitle a recipient to sue a violator for damages, attorney's fees and costs, and an order enjoining the sending of further email.

Additionally, Sections 205.492 and 205.511 of the *Nevada Revised Statutes*, part of the laws dealing with computer crimes, govern the transmission of unsolicited electronic mail. Those code sections:

- Forbid a sender to falsify his or her identity, or to falsify the routing information or subject line of an email;
- Make it illegal to send an email using another person's domain name without permission;
- Ban the distribution of software designed to falsify the sender, routing information, or subject line of an email;
- Impose criminal penalties on violators; and
- Entitle a victim to sue a violator for damages, costs, and attorney's fees.

## **Nev. Rev. Stat.**

### **§41.705. Construction of Definitions Relating to Commercial Electronic Mail**

As used in §§41.705 to 41.735, inclusive, unless the context otherwise requires, the words and terms defined in §§41.710 to 41.725, inclusive, have the meanings ascribed to them in those sections.

*Created by Chapter 341, §2, Statutes of 1997, effective July 1, 1998.*

### **§41.710. Definition of "Advertisement"**

"Advertisement" means material that:

1. Advertises for commercial purposes the availability or the quality of real property, goods or services; or
2. Is otherwise designed or intended to solicit a person to purchase real property, goods or services.

*Created by Chapter 341, §3, Statutes of 1997, effective July 1, 1998.*

### **§41.715. Definition of "Electronic Mail"**

"Electronic mail" means a message, a file or other information that is transmitted through a

local, regional or global network, regardless of whether the message, file or other information is:

1. Viewed;
2. Stored for retrieval at a later time;
3. Printed onto paper or other similar material; or
4. Filtered or screened by a computer program that is designed or intended to filter or screen items of electronic mail.

*Created by Chapter 341, §4, Statutes of 1997, effective July 1, 1998.*

#### **§41.720. Definition of "Network"**

"Network" means a network comprised of one or more computers that may be accessed by a modem, electronic or optical technology, or other similar means.

*Created by Chapter 341, §5, Statutes of 1997, effective July 1, 1998.*

#### **§41.725. Definition of "Recipient"**

"Recipient" means a person who receives an item of electronic mail.

*Created by Chapter 341, §6, Statutes of 1997, effective July 1, 1998.*

#### **§41.730. Unsolicited Commercial Electronic Mail; Recipient's Remedies**

1. Except as otherwise provided in §41.735, if a person transmits or causes to be transmitted to a recipient an item of electronic mail that includes an advertisement, the person is liable to the recipient for civil damages unless:
  - 1.(a) The person has a preexisting business or personal relationship with the recipient;
  - 1.(b) The recipient has expressly consented to receive the item of electronic mail from the person; or
  - 1.(c) The advertisement is readily identifiable as promotional, or contains a statement providing that it is an advertisement, and clearly and conspicuously provides:
    - 1.(c)(1) The legal name, complete street address and electronic mail address of the person transmitting the electronic mail;
    - 1.(c)(2) A notice that the recipient may decline to receive additional electronic mail that includes an advertisement from the person transmitting the electronic mail and the procedures for declining such electronic mail; and
    - (1)(c)(3) The abbreviation "ADV" or the word "advertisement" as the first word of the subject line of the electronic mail.
2. Unless a greater amount of damages is provided pursuant to subsection (3), if a person is liable to a recipient pursuant to subsection (1), the recipient may recover from the person:
  - 2.(a) Actual damages or damages of \$50 per item of electronic mail received, whichever is greater; and
  - 2.(b) Attorney's fees and costs.
3. If a person is liable to a recipient pursuant to subsection (1) and the person:

- 3.(a) Disguised the source of the advertisement;
- 3.(b) Used false or misleading information in the subject line of the electronic mail;
- 3.(c) Provided a false return address;
- 3.(d) Ignored requests made by the recipient to decline receiving additional electronic mail;
- 3.(e) Provided a false address for declining additional electronic mail from the person;
- or
- 3.(f) Obtained the electronic mail address of the recipient through a method that was not authorized by the recipient,

the recipient may recover actual damages or damages of \$500 per item of electronic mail received, whichever is greater, and attorney's fees and costs.

3. In addition to any other recovery that is allowed pursuant to subsection (2) or (3), the recipient may apply to the district court of the county in which the recipient resides for an order enjoining the person from transmitting to the recipient any other item of electronic mail that includes an advertisement.

*Created by Chapter 341, §7, Statutes of 1997, effective July 1, 1998. Amended by Chapter 12, §1, Statutes of 2003, effective October 1, 2003.*

#### **§41.735. Acts Not Considered Violations**

1. If a person provides users with access to a network and, as part of that service, transmits items of electronic mail on behalf of those users, the person is immune from liability for civil damages pursuant to §41.705 to 41.735, inclusive, unless the person transmits an item of electronic mail that includes an advertisement he prepared or caused to be prepared.

2. The provisions of §41.705 to 41.735, inclusive, do not apply to an item of electronic mail that is obtained by a recipient voluntarily. This subsection includes, but is not limited to, an item of electronic mail that is obtained by a recipient voluntarily from an electronic bulletin board.

*Created by Chapter 341, §8, Statutes of 1997, effective July 1, 1998.*

#### **§205.492. Offenses Involving Electronic Mail**

1. A person shall not willfully falsify or forge any data, information, image, program, signal or sound that:

- 1.(a) Is contained in the header, subject line or routing instructions of an item of electronic mail; or
- 1.(b) Describes or identifies the sender, source, point of origin or path of transmission of an item of electronic mail, with the intent to transmit or cause to be transmitted the item of electronic mail to any Internet or network site or to the electronic mail address of one or more recipients without their knowledge of or consent to the transmission.

2. Except as otherwise provided in subsection (7), a person shall not willfully transmit or cause to be transmitted an item of electronic mail to any Internet or network site or to the electronic mail address of one or more recipients without their knowledge of or consent to the transmission if the person knows or has reason to know that the item of electronic mail contains or has been generated or formatted with:

- 2.(a) An Internet domain name that is being used without the consent of the person who holds the Internet domain name; or

2.(b) Any data, information, image, program, signal or sound that has been used intentionally in the header, subject line or routing instructions of the item of electronic mail to falsify or misrepresent:

2.(b)(1) The identity of the sender; or

2.(b)(2) The source, point of origin or path of transmission of the item of electronic mail.

3. A person shall not knowingly sell, give or otherwise distribute or possess with the intent to sell, give or otherwise distribute any data, information, image, program, signal or sound which is designed or intended to be used to falsify or forge any data, information, image, program, signal or sound that:

3.(a) Is contained in the header, subject line or routing instructions of an item of electronic mail; or

3.(b) Describes or identifies the sender, source, point of origin or path of transmission of an item of electronic mail.

4. Except as otherwise provided in subsection (7), a person shall not willfully and without authorization transmit or cause to be transmitted an item of electronic mail or any other data, information, image, program, signal or sound to any Internet or network site, to the electronic mail address of one or more recipients or to any other computer, system or network:

4.(a) With the intent to prevent, impede, delay or disrupt the normal operation or use of the Internet or network site, electronic mail address, computer, system or network, whether or not such a result actually occurs; or

4.(b) Under circumstances in which such conduct is reasonably likely to prevent, impede, delay or disrupt the normal operation or use of the Internet or network site, electronic mail address, computer, system or network, whether or not such a result actually occurs.

5. Except as otherwise provided in subsection (6), a person who violates any provision of this section is guilty of a misdemeanor.

6. If the violation of any provision of subsection (4):

6.(a) Was committed to devise or execute a scheme to defraud or illegally obtain property;

6.(b) Caused response costs, loss, injury or other damage in excess of \$500; or

6.(c) Caused an interruption or impairment of a public service, including, without limitation, a governmental operation, a system of public communication or transportation or a supply of water, gas or electricity,

the person is guilty of a category C felony and shall be punished as provided in §193.130, and may be further punished by a fine of not more than \$100,000. In addition to any other penalty, the court shall order the person to pay restitution.

7. The provisions of subsections (2) and (4) do not apply to a provider of Internet service who, in the course of providing service, transmits or causes to be transmitted an item of electronic mail on behalf of another person, unless the provider of Internet service is the person who first generates the item of electronic mail.

8. As used in this section, "item of electronic mail" includes, without limitation:

8.(a) A single item of electronic mail;

8.(b) Multiple copies of one or more items of electronic mail;

8.(c) A collection, group or bulk aggregation of one or more items of electronic mail;

8.(d) A constant, continual or recurring pattern or series of one or more items of

electronic mail; or

8.(e) Any other data, information, image, program, signal or sound that is included or embedded in or attached or connected to one or more items of electronic mail.

*Created by Chapter 530, §20, Statutes of 1999, effective June 8, 1999. Amended by Chapter 274, §7, Statutes of 2001, effective October 1, 2001.*

### **§205.511. Computer Crime Victim's Remedies**

1. Any victim of a crime described in §§205.473 to 205.513 [*which deal with computer crime*], inclusive, may bring a civil action to recover:

1.(a) Damages for any response costs, loss or injury suffered as a result of the crime;

1.(b) Punitive damages; and

1.(c) Costs and reasonable attorney's fees incurred in bringing the civil action.

2. A victim of a crime described in §§205.473 to 205.513, inclusive, may bring a civil action pursuant to this section whether or not the person who committed the crime is or has been charged with or convicted or acquitted of the crime or any other offense arising out of the facts surrounding the crime.

3. The provisions of this section do not abrogate or limit the right of a victim of a crime described in §§205.473 to 205.513, inclusive, to bring a civil action pursuant to any other statute or the common law.

*Created by Chapter 530, §22, Statutes of 1999, effective June 8, 1999. Amended by Chapter 274, §8, Statutes of 2001, effective October 1, 2001.*