

CONNECTICUT

Portions of Sections 52-570c, 53-451, and 53-452 of the *General Statutes of Connecticut* govern electronic mail transmissions. Those provisions:

- Forbid the sending of bulk commercial email, in violation of the sender's service provider's conditions of use, with the intent to falsify routing information;
- Require the sender of unsolicited commercial email to put a label on the email's subject line, and to provide a mechanism by which a recipient can ask not to be contacted;
- Forbid the sending of email to a person who has asked not to be contacted;
- Make it illegal to distribute software designed to falsify routing information;
- Impose criminal penalties on violators; and
- Entitle a recipient or service provider to sue a violator for damages, attorney's fees and costs, and an injunction against further violations.

Conn. Gen. Stat. Ann.

§52-570c. Unsolicited Advertising by Fax or Electronic Mail

(a) No person shall use a machine that electronically transmits facsimiles through connection with a telephone network or a device that automatically transmits a recorded telephone message to transmit unsolicited advertising material or an unsolicited telephone message which offers to sell goods or services.

(b)(1) No person shall send unsolicited advertising material by electronic mail, or cause such material to be sent by electronic mail, to an electronic mail address held by a resident of this state unless: (A) Such person identifies in the electronic mail a toll-free telephone number or a valid return electronic mail address that the recipient may use to unsubscribe or otherwise notify the sender to not send any further unsolicited electronic mail, and (B) the subject line begins with the letters "ADV".

(b)(2) Notwithstanding the provisions of subdivision (1) of this subsection, no person or entity shall send by electronic mail, or cause to be sent by electronic mail, unsolicited advertising material upon notification by a recipient of such recipient's request to not receive any further such material.

(b)(3) For purposes of this subsection, (A) "person" does not include an electronic mail service provider, as defined in §53-451, or an Internet access provider, (B) "Internet access provider" means a person who provides underlying network facilities utilized in the transmission of Internet services, and (C) electronic mail has "unsolicited advertising material" if it includes an advertisement for products or services and is sent without the consent of the recipient by a person with whom the recipient does not have an established business relationship, and electronic mail does not have "unsolicited advertising material" if the sender has the consent of the recipient to send such mail to the receiver, or if the sender has a prior or existing business relationship formed by voluntary communication between the sender and the recipient with or without an exchange of consideration, in response to the recipient's inquiry about, application for, purchase of or use of products or services offered by the sender.

(c) The provisions of this section shall not apply to tax-exempt nonprofit organizations or to political or candidate committees or candidates or solicitors, as defined in chapter 150

[which governs campaign finance].

(d) Any person aggrieved by a violation of the provisions of this section may bring a civil action in the Superior Court to enjoin further violations and for \$500 for each violation, together with costs and a reasonable attorney's fee. No such action shall be brought but within two years from the date of the act complained of. For purposes of this subsection, each electronic mail sent in violation of subsection (b) of this section constitutes a separate and distinct violation.

Created by Chapter 103, §1, Public Acts of 1989. Amended by Chapter 282, §§3-4, Public Acts of 1990; and Chapter 128, §2, Public Acts of 2003, effective October 1, 2003.

§53-451. Computer Crimes: Definitions; Specific Offenses

(a) As used in §§53-451 to 53-453, inclusive, unless the context clearly requires otherwise:

(a)(1) "Computer" means an electronic, magnetic or optical device or group of devices that, pursuant to a computer program, human instruction or permanent instructions contained in the device or group of devices, can automatically perform computer operations with or on computer data and can communicate the results to another computer or to a person. "Computer" includes any connected or directly related device, equipment or facility that enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device.

(a)(2) "Computer data" means any representation of information, knowledge, facts, concepts or instructions that is being prepared or has been prepared and is intended to be processed, is being processed or has been processed in a computer or computer network. "Computer data" may be in any form, whether readable only by a computer or only by a human or by either, including, but not limited to, computer printouts, magnetic storage media, punched cards or stored internally in the memory of the computer.

(a)(3) "Computer network" means a set of related, remotely connected devices and any communications facilities including more than one computer with the capability to transmit data among them through the communications facilities.

(a)(4) "Computer operation" means arithmetic, logical, monitoring, storage or retrieval functions and any combination thereof, and includes, but is not limited to, communication with, storage of data to or retrieval of data from any device or human hand manipulation of electronic or magnetic impulses. A "computer operation" for a particular computer may also be any function for which that computer was generally designed.

(a)(5) "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, causes the computer to perform one or more computer operations.

(a)(6) "Computer services" means computer time or services including data processing services, Internet services, electronic mail services, electronic message services or information or data stored in connection therewith.

(a)(7) "Computer software" means a set of computer programs, procedures and associated documentation concerned with computer data or with the operation of a computer, computer program or computer network.

(a)(8) "Electronic mail service provider" means any person who (A) is an intermediary in sending or receiving electronic mail, and (B) provides to end-users of electronic mail services the ability to send or receive electronic mail.

(a)(9) "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security or any

computerized representation thereof.

(a)(10) "Owner" means an owner or lessee of a computer or a computer network, or an owner, lessee or licensee of computer data, computer programs or computer software.

(a)(11) "Person" means a natural person, corporation, limited liability company, trust, partnership, incorporated or unincorporated association and any other legal or governmental entity, including any state or municipal entity or public official.

(a)(12) "Property" means: (A) Real property; (B) computers and computer networks; (C) financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are: (i) Tangible or intangible; (ii) in a format readable by humans or by a computer; (iii) in transit between computers or within a computer network or between any devices which comprise a computer; or (iv) located on any paper or in any device on which it is stored by a computer or by a human; and (D) computer services.

(a)(13) A person "uses" a computer or computer network when such person:

(a)(13)(A) Attempts to cause or causes a computer or computer network to perform or to stop performing computer operations;

(a)(13)(B) Attempts to cause or causes the withholding or denial of the use of a computer, computer network, computer program, computer data or computer software to another user; or

(a)(13)(C) Attempts to cause or causes another person to put false information into a computer.

(a)(14) A person is "without authority" when such person (A) has no right or permission of the owner to use a computer or such person uses a computer in a manner exceeding such right or permission, or (B) uses a computer, a computer network or the computer services of an electronic mail service provider to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of electronic mail from an organization to its members shall not be deemed to be unsolicited bulk electronic mail.

(b) It shall be unlawful for any person to use a computer or computer network without authority and with the intent to:

(b)(1) Temporarily or permanently remove, halt or otherwise disable any computer data, computer programs or computer software from a computer or computer network;

(b)(2) Cause a computer to malfunction, regardless of how long the malfunction persists;

(b)(3) Alter or erase any computer data, computer programs or computer software;

(b)(4) Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;

(b)(5) Cause physical injury to the property of another;

(b)(6) Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs or computer software residing in, communicated by or produced by a computer or computer network; or

(b)(7) Falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

(c) It shall be unlawful for any person to knowingly sell, give or otherwise distribute or possess with the intent to sell, give or distribute software that: (1) Is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail

transmission information or other routing information; (2) has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or (3) is marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(d) Any person who violates any provision of this section shall be guilty of a class B misdemeanor, except that if such person's reckless disregard for the consequences of such person's actions causes damage to the property of another person in an amount exceeding \$2,500, such person shall be guilty of a class A misdemeanor, and if such person's malicious actions cause damage to the property of another person in an amount exceeding \$2,500, such person shall be guilty of a class D felony.

(e) Nothing in this section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services or computer software or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, a Connecticut-based electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this section.

Created by Public Act No. 160 of 1999, §1, effective October 1, 1999.

§53-452. Remedies Available to Victim of Computer Crime

(a) Any person whose property or person is injured by reason of a violation of any provision of §53-451 may bring a civil action in the Superior Court to enjoin further violations and to recover the actual damages sustained by reason of such violation and the costs of the civil action. Without limiting the generality of the term, "damages" includes loss of profits.

(b) If the injury arises from the transmission of unsolicited bulk electronic mail, the injured person, other than an electronic mail service provider, may also recover reasonable attorneys' fees and costs, and may elect, in lieu of actual damages, to recover the lesser of \$10 for each and every unsolicited bulk electronic mail message transmitted in violation of §53-451 or \$25,000 per day for each day of violation. The injured person shall not have a cause of action against the electronic mail service provider that merely transmits the unsolicited bulk electronic mail over its computer network.

(c) If the injury arises from the transmission of unsolicited bulk electronic mail, an injured electronic mail service provider may also recover reasonable attorneys' fees and costs and may elect, in lieu of actual damages, to recover the greater of \$10 for each and every unsolicited bulk electronic mail message transmitted in violation of §53-451 or \$25,000 per day.

(d) 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 in order to prevent any possible recurrence of the same or a similar act by another person and to protect any trade secrets of any party.

(e) The provisions of this section shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

(f) A civil action under this section shall not be commenced but within two years from the

date of the act complained of. In actions alleging injury arising from the transmission of unsolicited bulk electronic mail, personal jurisdiction may be exercised pursuant to §52-59b *[which governs jurisdiction over nonresidents]*.
Created by Public Act No. 160 of 1999, §2, effective October 1, 1999.