

IDAHO

Section 48-603E of the *Idaho Code* governs the transmission of bulk commercial electronic mail. That code section:

- Requires a sender to provide an email address that the recipient can use to ask not to be contacted;
- Forbids a sender to send email to a person who has asked not to be contacted;
- Makes it illegal to send an email with falsified routing information, or to put another person's name on the return address field of an email without permission; and
- Entitles a recipient to sue a violator for damages.

Idaho Code

§48-603E. Restrictions on Bulk Commercial Electronic Mail

(1) For purposes of this section, unless the context otherwise requires:

(1)(a) "Bulk electronic mail advertisement" means an electronic message, containing the same or similar advertisement, which is contemporaneously transmitted to two or more recipients, pursuant to an internet or intranet computer network.

(1)(b) "Computer network" means a set of related, remotely connected devices and communication facilities, including two or more computers, with the capability to transmit data among them through communication facilities.

(1)(c) "Interactive computer service" means an information service, system or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet, and such systems operated or services offered by a library or an educational institution.

(1)(d) "Recipient" means a person who receives any bulk electronic mail advertisements.

(2) Any person who uses an interactive computer service to initiate or cause the sending or transmittal of any bulk electronic mail advertisement shall provide an electronic mail address readily identifiable in the bulk electronic mail advertisement to which the recipient may send a request for declining such mail.

(3) It is unlawful for a person to use an interactive computer service to initiate or cause the sending or transmittal of any bulk electronic mail advertisement to any recipient that the sender knows, or has reason to know, engages in any of the following:

(3)(a) Uses the name of a fictitious name of a third party in the return address field without the permission of the third party.

(3)(b) Misrepresents any information in identifying the point of origin of the transmission path of the bulk electronic mail advertisement.

(3)(c) Fails to contain information identifying the point of origin of the transmission path of the bulk electronic mail advertisement.

(3)(d) Sends or transmits, at any time after five business days of a declination, any bulk electronic mail advertisement to a recipient who provided the sender with a request declining the receipt of such advertisements.

(4) Pursuant to §48-608 [*which sets out a consumer's remedies under the Consumer Protection Act*], a recipient that receives a bulk electronic mail advertisement in violation of this section may bring an action to recover actual damages. The recipient, in lieu of actual damages, may elect to recover from the person transmitting or causing to be transmitted

such bulk electronic mail advertisement the greater of \$100 for each bulk electronic mail advertisement transmitted to the recipient in violation of this section or \$1,000.

(5) This section does not apply to any of the following:

(5)(a) A person, including an interactive computer service, who provides users with access to a computer network, and as part of that service, transmits electronic mail on behalf of those users, unless such person transmits bulk electronic mail advertisements on behalf of those users which the person knows, or should have known, were transmitted in violation of this section.

(5)(b) Electronic mail advertisements which are accessed by the recipient from an electronic bulletin board.

(5)(c) A person who provides users with access at no charge to electronic mail, including receiving and transmitting bulk electronic mail advertisements, and, as a condition of providing such access, requires such users to receive unsolicited advertisements.

(5)(d) The transmission of bulk electronic mail advertisements from an organization or similar entity to the members of such organization.

(6) An interactive computer service is not liable under this section for an action voluntarily taken in good faith to block or prevent the receipt or transmission through its service of any bulk electronic mail advertisement which is reasonably believed to be in violation of this section.

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