

RHODE ISLAND

Section 6-47-2 of the *General Laws of Rhode Island* governs the transmission of commercial electronic mail. That code section:

- Applies to email sent from a computer located in Rhode Island or to an address that the sender knows, or has reason to know, belongs to a Rhode Island resident;
- Requires a sender to provide a mechanism by which a recipient can ask not to be contacted;
- Forbids the sending of email to a person who has asked not to be contacted;
- Makes it illegal to use another person's domain name without permission, or to falsify the routing information of an email; and
- Entitles a recipient to sue a violator for damages, attorney's fees, and costs.

Additionally, portions of Sections 11-52-1 through 11-52-8, which apply to computer crimes in general, govern the transmission of bulk electronic mail. Those provisions:

- Generally require a sender to comply with his or her service provider's conditions of use;
- Forbid a sender to falsify the header of, other routine information pertaining to, an email;
- Make it illegal to distribute software designed to falsify headers or other routine information;
- Impose criminal penalties on violators; and
- Entitle a recipient or service provider injured by a violation to sue the violator for actual and punitive damages, attorney's fees, and costs.

R.I. Gen. Laws

§6-47-2. Unsolicited and Fraudulent Electronic Mail

(a) No person or entity may initiate the transmission of a commercial electronic mail message from a computer located in Rhode Island or to an electronic mail address that the sender knows, or has reason to know, is held by a Rhode Island resident unless that person or entity establishes a toll-free telephone number or valid sender operated return e-mail address that the recipient of the unsolicited documents may call or e-mail to notify the sender not to e-mail any further unsolicited documents.

(b) All unsolicited commercial electronic messages subject to this section shall include a statement informing the recipient of the toll-free telephone number that the recipient may call, or a valid return address to which the recipient may write or e-mail, as the case may be, notifying the sender not to e-mail the recipient any further unsolicited commercial electronic mail messages to the e-mail address or addresses specified by the recipient.

(c) Upon notification by a recipient of his or her request not to receive any further unsolicited commercial electronic mail messages, no person or entity subject to subsection (a) shall e-mail or cause to be e-mailed any unsolicited documents to that recipient.

(d) No person or entity may initiate the transmission of a commercial electronic mail message from a computer located in Rhode Island or to an electronic mail address that the sender knows, or has reason to know, is held by a Rhode Island resident that fraudulently uses a third party's internet domain name without permission of the third party, or otherwise

fraudulently misrepresents any information in identifying the point of origin or the transmission path of a commercial electronic mail message.

(e) As used in this section, "commercial electronic messages" means any e-mailed document or documents consisting of commercial advertising material, the principal purpose of which is to promote the for-profit sale or lease of goods or services to the recipient and which meet both of the following requirements:

(e)(1) The documents are addressed to a recipient with whom the initiator does not have an existing business or personal relationship.

(e)(2) The documents are not sent at the request of, or with the express consent of, the recipient.

(f) As used in this section, "e-mail" or "caused to be e-mailed" does not include or refer to the transmission of any documents by a telecommunications utility or Internet service provider to the extent that the telecommunications utility or Internet service provider merely carries that transmission over its network.

(g) For purposes of this section, a person or entity has reason to know that the intended recipient of a commercial electronic mail message is a Rhode Island resident if the recipient has requested of the sender not to receive any further unsolicited commercial electronic messages.

(h) Any person or entity who violates the provisions of this chapter shall be liable for damages to the recipient of an unsolicited commercial electronic mail message in the amount of \$100 for each such violation. In addition, the recipient may recover reasonable attorney's fees and costs.

Created by Chapter 479, §1, Public Laws of 1999, effective July 8, 1999.

§11-52-1. Definitions Pertaining to Computer Crime

As used in this chapter [§§11-52-1 - 11-52-8]:

(1) "Access" means to approach, instruct, communicate with, store data in, enter data in, retrieve data from, or otherwise make use of any resources of, a computer, computer system, or computer network.

(2) "Computer" means an electronic, magnetic, optical, hydraulic or organic device or group of devices which, pursuant to a computer program, to human instruction, or to 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. The term "computer" includes any connected or directly related device, equipment, or facility which 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.

(3) "Computer data" means any representation of information, knowledge, facts, concepts, or instructions which 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 data stored internally in the

memory of the computer.

(4) "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.

(5) "Computer operation" means arithmetic, logical, monitoring, storage or retrieval functions and any combination of them, 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.

(6) "Computer program" means a series of instructions or statements or related data that, in actual or modified form, is capable of causing a computer or a computer system to perform specified functions in a form acceptable to a computer, which permits the functioning of a computer system in a manner designed to provide appropriate products from the computer systems.

(7) "Computer services" includes computer time or services, data processing services, Internet service providers' networks and facilities located in the state or information or data stored in connection with them.

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

(9) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, and software.

(10) "Data" means any representation of information, knowledge, facts, concepts, or instructions which are being prepared or have been prepared and are intended to be entered, processed, or stored, are being entered, processed, or stored or have been entered, processed, or stored in a computer, computer system, or computer network.

(11) "Electronic mail service provider" means any business or organization qualified to do business in the state of Rhode Island that provides registered users the ability to send or receive electronic mail through equipment located in this state and that is an intermediary in sending or receiving electronic mail.

(12) "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 of any of these.

(13) "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.

(14) "Person" shall include any individual, partnership, association, corporation or joint venture.

(15) "Property" includes, but is not limited to:

- (15)(i) Real property;
- (15)(ii) Computers and computer networks;
- (15)(iii) Financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are:
 - (15)(iii)(A) Tangible or intangible;
 - (15)(iii)(B) In a format readable by humans or by a computer;
 - (15)(iii)(C) In transit between computers or within a computer network or between any devices which comprise a computer; or
 - (15)(iii)(D) Located on any paper or in any device on which it is stored by a computer or by a human; and
 - (15)(iii)(E) Computer services.
- (15)(iv) A person "uses" a computer or computer network when he or she:
 - (15)(iv)(A) Attempts to cause or causes a computer or computer network to perform or to stop performing computer operations;
 - (15)(iv)(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
 - (15)(iv)(C) Attempts to cause or causes another person to put false information into a computer.
- (15)(v) A person is "without authority" when: (A) he or she has no right or permission of the owner to use a computer, or, he or she uses a computer in a manner exceeding his or her right or permission; or (B) he or she uses an Internet service e-mail system offered by a Rhode Island based Internet service provider in contravention of the authority granted by or in violation of the policies set by the Internet service provider.
- (15)(vi) Transmission of electronic mail from an organization to its members shall not be deemed to be unsolicited bulk electronic mail.

(16) "Services" includes, but is not limited to, computer time, data processing, and storage functions.

(17) "Source document" means an original document or record which forms the basis of every electronic entry put into a computer, computer system, or computer network.

Created by Chapter 217, §1, Public Laws of 1979. Amended by Chapter 136, §1, Public Laws of 1989; and Chapter 421, §1, Public Laws of 1999, effective October 1, 1999.

§11-52-4.1. Unlawful Use of Computer

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

- (a)(1) Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network;
- (a)(2) Cause a computer to malfunction regardless of how long the malfunction persists;
- (a)(3) Alter or erase any computer data, computer programs, or computer software;
- (a)(4) Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;
- (a)(5) Cause physical injury to the property of another;
- (a)(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;

(a)(7) Forge e-mail header information or other Internet routine information for the purpose of sending unsolicited bulk electronic mail through or into the facilities of an electronic mail service provider or its subscribers; or

(a)(8) To sell, give or otherwise distribute or possess with the intent to sell, give, or distribute software which is designed to facilitate or enable the forgery of electronic mail header information or other internet routing information for the purpose of sending unsolicited bulk electronic mail through or into the facilities of an electronic mail service provider or its subscribers.

(b) 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 Rhode Island-based electronic mail service provider to prevent the transmission of unsolicited bulk electronic mail in violation of this chapter [§§11-52-1 - 11-52-8]. Whoever violates this section shall be guilty of a felony and shall be subject to the penalties set forth in §11-52-2. If the value is \$500 or less, then the person shall be guilty of a misdemeanor and may be punishable by imprisonment for a term not exceeding one year or by a fine of not more than \$1,000 or both.

Created by Chapter 421, §2, Public Laws of 1999, effective October 1, 1999. Amended by Chapter 373, §1, and Chapter 461, §1, Public Laws of 2006, effective July 7, 2006.

§11-52-5. Penalties for Computer Crime

(a) Any person who is convicted of an offense which is classified as a felony under this chapter shall be fined not more than \$5,000, or imprisoned for not more than five years, or both.

(b) Any person who is convicted of an offense which is classified as a misdemeanor under this chapter shall be fined not more than \$500, or imprisoned for not more than one year, or both.

Created by Chapter 217, §1, Public Laws of 1979. Amended by Chapter 246, §3, Public Laws of 1983; Chapter 71, §1, Public Laws of 1989; and Chapter 136, §1, Public Laws of 1989.

§11-52-6. Victim's Remedies

(a) Any person injured as a result of a violation of this chapter may bring a civil action against the violator for compensatory damages, punitive damages, court costs, and any other relief that the court deems appropriate, including reasonable attorneys' fees.

(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 attorney's fees and costs and may elect, in lieu of actual damages, to recover the lesser of \$500 for each and every unsolicited bulk electronic mail message transmitted in violation of this chapter up to a maximum of \$25,000 per day. The injured person shall not have a cause of action against the electronic mail service provider which 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 attorneys fees and costs, and may elect, in lieu of actual damages, to recover the greater of \$500 for each and every unsolicited bulk electronic mail message transmitted in violation of this chapter up to a maximum of \$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 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.

Created by Chapter 115, §1, Public Laws of 1989. Amended by Chapter 421, §1, Public Laws of 1999, effective October 1, 1999.