
Nevada Senate Bill No. 13

Introduced by Senator Raggio
Prefiled on January 14, 1997

As amended and passed by Assembly June 30, 1997 (third reprint)
Amended version concurred in by Senate July 1, 1997

AN ACT relating to actions concerning persons; providing that a person who transmits certain items of electronic mail is liable to the recipient for civil damages under certain circumstances; providing that the district court may enjoin a person from transmitting certain items of electronic mail under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO
ENACT AS FOLLOWS:

Section 1 Chapter 41 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2 *As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3 *"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.*

Sec. 4 *"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.*

Sec. 5 *"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.*

Sec. 6 *"Recipient" means a person who receives an item of electronic mail.*

Sec. 7 *1. Except as otherwise provided in section 8 of this act, 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:*

(a) The person has a preexisting business or personal relationship with the recipient; or

(b) The recipient has expressly consented to receive the item of electronic mail from

the person; or

(c) The advertisement is readily identifiable as promotional, or contains a statement providing that it is an advertisement, and clearly and conspicuously provides:

(1) The legal name, complete street address and electronic mail address of the person transmitting the electronic mail; and

(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.

2. If a person is liable to a recipient pursuant to subsection 1, the recipient may recover from the person:

(a) Actual damages or damages of \$10 per item of electronic mail received, whichever is greater; and

(b) Attorney's fees and costs.

3. In addition to any other recovery that is allowed pursuant to subsection 2, 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.

Sec. 8 *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 sections 2 to 8, inclusive, of this act, unless the person transmits an item of electronic mail that includes an advertisement he prepared or caused to be prepared.*

2. The provisions of sections 2 to 8, inclusive, of this act 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.
