

UNSOLICITED COMMERCIAL E-MAIL PROTECTION ACT (EXCERPT)
Act 42 of 2003

445.2507 Violation; penalty; separate violations; evidence; defense.

Sec. 7. (1) Except as otherwise provided under subsection (2), a person who violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

(2) A person who violates section 4 or violates this act in the furtherance of another crime is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$25,000.00, or both.

(3) Each commercial e-mail sent in violation of this act is a separate violation under this section.

(4) An e-mail service provider does not violate this act as a result of either of the following:

(a) Being an intermediary between the sender and recipient in the transmission of an unsolicited commercial e-mail that violates this act.

(b) Provides transmission of unsolicited commercial e-mail over the provider's network or facilities.

(5) It is prima facie evidence that the sender is in violation of this section if the recipient is unable to contact the sender through the return e-mail address provided by the sender under section 3.

(6) It is a defense to a case brought under this section or an action under section 8 that the unsolicited commercial e-mail was transmitted accidentally or as a result of a preexisting business relationship. The burden of proving that the commercial e-mail was transmitted accidentally or as a result of a preexisting business relationship is on the sender.

History: 2003, Act 42, Eff. Sept. 1, 2003.