

CHAPTER.....

AN ACT relating to electronic transmissions; providing certain requirements to identify advertisements in electronic mail; increasing liability for improperly transmitting electronic mail that includes an advertisement in 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. NRS 41.730 is hereby amended to read as follows:

41.730 1. Except as otherwise provided in NRS 41.735, 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;

(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; and~~

(3) The abbreviation “ADV” or the word “advertisement” as the first word of the subject line of the electronic mail.

2. Unless a greater amount of damages is provided pursuant to subsection 3, 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]~~ \$50 per item of electronic mail received, whichever is greater; and

(b) Attorney’s fees and costs.

3. If a person is liable to a recipient pursuant to subsection 1 and the person:

(a) Disguised the source of the advertisement;

(b) Used false or misleading information in the subject line of the electronic mail;

(c) Provided a false return address;

(d) Ignored requests made by the recipient to decline receiving additional electronic mail;

(e) Provided a false address for declining additional electronic mail from the person; or

(f) Obtained the electronic mail address of the recipient through a method that was not authorized by the recipient, the recipient may recover actual damages or damages of \$500 per item of electronic mail received, whichever is greater, and attorney's fees and costs.

4. In addition to any other recovery that is allowed pursuant to subsection 2 ~~§~~ *or 3*, 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.