

HOUSE RESEARCH

Bill Summary

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Subject: Regulating spam e-mail messages

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Overview

This bill provides criminal and civil remedies against senders of spam e-mail messages. For reference: felonies are crimes that can result in a prison sentence of more than a year; gross misdemeanors are crimes that can result in a jail sentence of more than 90 days but less than a year, and fines of up to \$3,000; and misdemeanors are crimes that can result in jail sentences of up to 90 days and a fine of up to \$1,000.

Section

- 1 Definitions.** Defines 19 terms used in this bill.
- 2 False, misleading, or deceptive commercial electronic mail messages prohibited.** Prohibits the following actions involving an e-mail message sent from or to a computer in this state: (1) relaying or retransmitting multiple commercial e-mails, with the intent to hide the origin of the messages; (2) falsifying header information in a commercial e-mail and then sending it; (3) registering five or more e-mail accounts or online user accounts, or two or more domain names, in a way that falsifies the identity of the registrant, and then sending commercial e-mails from them; (4) falsely representing the right to use five or more Internet protocol addresses and sending commercial e-mails from those addresses.
- 3 Illegal transmission of multiple messages; criminal penalties.** (a) Provides that violating the preceding section is "illegally transmitting multiple commercial electronic mail messages." Makes doing that a misdemeanor, unless otherwise provided in paragraph (b) or in subdivision 3 of the next section.

Section

(b) Makes illegally transmitting multiple commercial electronic mail messages a gross misdemeanor if the perpetrator: (1) uses 20 or more e-mail or online accounts or ten or more domain names; (2) sends more than 250 such messages within 24 hours, 2,500 within 30 days, or 25,000 within a year; (3) causes aggregate loss of \$500 or more to victims, or obtains that value of property, within a one-year period; or (4) commits the violation with three or more other persons, with the perpetrator as the leader; (5) provides or selects e-mail addresses obtained illegally by automated means; or (6) provides or selects e-mail addresses through an automated means that generates permutations of names, letters, or numbers.

4 Unauthorized access to a computer; criminal penalties.

Subd. 1. Prohibition. Prohibits accessing a computer without authorization and using it to send illegal e-mail messages,

Subd. 2. Gross misdemeanor. Makes a violation of subdivision 1 a gross misdemeanor, unless subdivision 3 makes it a felony.

Subd. 3. Felony. Makes a violation of subdivision 1 a felony if it is a second offense or done in the furtherance of a felony.

5 Civil action. (a) Grants the attorney general or an e-mail service provider the right to sue a person who violates this act. Provides that the suit must be started within one year after the offense.

(b) Permits a suit brought by the attorney general to seek injunctive relief and a civil money penalty described in the bill.

(c) Permits a suit brought by an e-mail service provider to seek injunctive relief and damages described in the bill.

(d) Permits the court, in determining damages, to consider how blameworthy the defendant was.

(e) Provides for the right of the government to seize equipment used to commit this crime.

(f) Permits the attorney general to bring a civil action to enforce the federal CAN-SPAM act.

(g) Provides that this bill does not prohibit or require certain actions by e-mail service providers.

6 Effective date. Makes this act effective August 1, 2005, and makes sections 3 and 4 apply to crimes committed on or after that date.