

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1538, L.D. 2041, Bill, "An Act to Control Internet "Spam"

Amend the amendment in section 1 in that part designated "~~§1497.~~" by striking out all of subsection 1 and inserting in its place the following:

'1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Commercial e-mail" means an e-mail that primarily advertises or promotes the commercial availability of a product or service for profit or invites the recipient to view content on a publicly accessible site on the Internet that is operated primarily for a commercial purpose. An e-mail may not be considered to be a commercial e-mail solely because that e-mail includes a reference to a commercial entity that serves to identify the initiator. "Commercial e-mail" does not include an e-mail to which an interactive computer service provider has attached an advertisement in exchange for free use of an e-mail account, when the sender has agreed to such an arrangement.

B. "E-mail" means electronic mail sent or delivered by transmission over the Internet.

2 C. "E-mail service provider" means a business or
3 organization qualified to do business in this State that
4 provides individuals, corporations or other entities the
5 ability to send or receive e-mail through equipment located
6 in this State or that is an intermediary in sending or
7 receiving e-mail.

8 D. "Unsolicited commercial e-mail" does not include a
9 commercial e-mail when either of the following circumstances
10 exists:

12 (1) Within the 5-year period ending upon receipt of
13 such an e-mail, there has been a business transaction
14 between the sender and the recipient, including a
15 transaction involving the provision, free of charge, of
16 information requested by the recipient, of goods or of
17 services, and the recipient was, at the time of such
18 transaction or thereafter, provided a clear and
19 conspicuous notice of an opportunity not to receive
20 further messages from the sender and has not exercised
21 such opportunity; or

22 (2) The recipient has given the sender permission to
23 send a commercial e-mail to the electronic mail address
24 of the recipient and has not subsequently revoked such
25 permission.'

28 Further amend the amendment in section 1 in that part
29 designated "~~§1497.~~" in subsection 2 in the first line (page 2,
30 line 19 in amendment) by striking out the following:
31 "unsolicited"

32 Further amend the amendment in section 1 in that part
33 designated "~~§1497.~~" in subsection 2 in the last line (page 2,
34 line 23 in amendment) by striking out the following:
35 "unsolicited"

38 Further amend the amendment in section 1 in that part
39 designated "~~§1497.~~" in subsection 3 by striking out all of
40 paragraph A (page 2, lines 28 to 35 in amendment) and inserting
41 in its place the following:

42 'A. In the subject line, if the unsolicited commercial
43 e-mail contains information about material that may be
44 viewed only by a person at least 18 years of age, the first
45 8 characters as follows: "ADV:ADLT";'

48 Further amend the amendment in section 1 in that part
designated "~~§1497.~~" in subsection 8 in the 5th line (page 4, line

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17 in amendment) by inserting after the following: "for" the
2 following: 'any commercial e-mail that it did not initiate, nor'

4
6
SUMMARY

8 This amendment adds a definition of "commercial e-mail" and
changes the definition of "unsolicited commercial e-mail." It
removes the requirement that all unsolicited commercial e-mail
10 contain "ADV:" as the first 4 characters in the subject line. It
provides that an e-mail service provider is not liable for any
12 commercial e-mail it did not initiate.

14
16 SPONSORED BY: 

(Senator SHOREY)

18 COUNTY: Washington
20