

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

6. Penalty. Violation of this chapter is an unfair trade practice as prohibited by Title 5, section 207. Each unsolicited commercial e-mail transmission to a recipient in violation of this chapter constitutes a separate violation. The Attorney General shall establish procedures for receiving and investigating complaints of violations of this chapter. The procedures may include the development of electronic forms, available over the Internet, by which a person may file a complaint with the Attorney General alleging a violation of this chapter.

7. Civil action; recipients. Notwithstanding Title 5, section 213, a person who receives a commercial e-mail sent in violation of this chapter may bring an action in an appropriate state court for either or both of the following:

- A. An injunction to stop such future e-mails; and
- B. Recovery of actual damages from each violation or up to \$250 in damages for each violation, whichever is greater.

If the court finds there has been a violation of this chapter, the court shall award the petitioner reasonable attorney's fees and costs incurred in connection with the action.

If the court finds that the defendant willfully or knowingly violated this chapter, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.

8. Civil action; e-mail service providers. Notwithstanding Title 5, section 213, an e-mail service provider through whose service is sent a commercial e-mail in violation of this chapter may bring an action in an appropriate state court for either or both of the following:

- A. An injunction to stop such future e-mails; and
- B. Recovery of actual damages from each violation or up to \$1,000 in damages for each violation, whichever is greater.

If the court finds there has been a violation of this chapter, the court shall award the petitioner reasonable attorney's fees and costs incurred in connection with the action.

If the court finds that the defendant willfully or knowingly violated this chapter, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under paragraph B.

9. Immunity. An e-mail service provider may, upon its own initiative, block the receipt or transmis-

sion through its service of any commercial e-mail that it reasonably believes is or will be sent in violation of this chapter. An e-mail service provider is not liable for any action taken in good faith to block the receipt or transmission through its service of any commercial e-mail that it reasonably believes is or will be sent in violation of this chapter.

See title page for effective date.

CHAPTER 328

H.P. 922 - L.D. 1248

An Act Concerning Disability Retirement Benefits under the Maine State Retirement System

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §18530, sub-§4, ¶B, as enacted by PL 1989, c. 409, §§11 and 12, is amended to read:

B. The reduction in the disability retirement benefit is governed as follows:

(1) The initial disability retirement benefit ~~shall~~ **must** be reduced if necessary so that the benefit plus any benefits under paragraph A do not exceed 80% of the person's average ~~final compensation~~ **annual earnings**. For the purposes of this subparagraph, "average annual earnings" means the total of the person's average final compensation plus other wages and earnings from employment for the calendar year in which the person has the highest total of other wages and earnings from employment during the 5 years immediately preceding the year in which the person became disabled;

(2) The amount determined by the calculation under subparagraph (1) shall not be adjusted when cost-of-living adjustments are applied to the benefits listed under paragraph A; and

(3) Adjustments under section 18407 shall be applied to the reduced disability retirement benefit calculated under subparagraph (1) or paragraph C.

See title page for effective date.
