WEST VIRGINIA CODE: §46A-6G-5

§46A-6G-5. Violations; right of action for injunction, damages.

(a) No person or organization may initiate an unauthorized bulk electronic mail message in violation of this article.

(b) A recipient of an unauthorized bulk electronic mail message in violation of this article may bring an action to recover actual damages for any injury sustained by the receipt of an unauthorized bulk electronic mail message. In lieu of actual damages, a minimum damage assessment of $1,000 may be recovered for violations of this article. Punitive damages may be awarded for the willful failure to cease initiating unauthorized bulk electronic mail messages. Court costs and reasonable attorney fees may be awarded for violations of this article.

(c) A recipient of an unauthorized bulk electronic mail message initiated in violation of this article may bring an action to enjoin the initiator from sending any further unauthorized bulk electronic mail messages. Any court costs or other costs incident to such action including reasonable attorney fees may be awarded.

(d) Initiating an unauthorized bulk electronic mail message to any computer or computer network located in this state shall constitute an act in the state for the purposes of section thirty-three, article three, chapter fifty-six of this code.

(e) Any interactive computer service provider or public utility whose property or person is injured by any violation of this article may bring an action to recover for any damages sustained, including, but not limited to, loss of profits. In addition, court costs and attorney fees may be recovered. The service provider may elect, in lieu of actual damages, to recover $10 for each and every unauthorized bulk electronic mail message transmitted in violation of this article, or $25,000 per day, whichever is greater.

(f) The provisions of this section shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

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