WEST VIRGINIA CODE: §46a-2-139

§46A-2-139. Unlawful commercial facsimile transmission; right of action for injunction, damages.

(a) No person or organization may initiate an unsolicited commercial facsimile transmission from within this state to another person or organization within this state after the initiator has been given notice that the recipient does not wish to receive such unsolicited commercial facsimile transmissions.

(b) A recipient of an unsolicited commercial facsimile transmission initiated in violation of subsection (a) of this section may bring an action to recover actual damages for any injury sustained by the receipt of unsolicited commercial facsimile transmissions. In lieu of actual damages, a minimum damage assessment of $300 may be recovered for violations of this section. Punitive damages may be awarded for the willful failure to cease initiating unsolicited commercial facsimile transmissions. Court costs and reasonable attorney fees may be awarded for violations of this section.

(c) A recipient of an unsolicited commercial facsimile transmission initiated in violation of subsection (a) of this section may bring an action to enjoin the initiator from sending any further unsolicited commercial facsimile transmissions to the recipient. Any court costs or other costs incident to such action including reasonable attorney fees may be awarded.

(d) In any proceeding under this section, an unsolicited commercial facsimile transmission may be deemed to have been committed either at the place of initiation or at the place of receipt of such transmission.

(e) For purposes of this section, notice shall be sufficient which conveys to the initiator of the unsolicited commercial transmission a desire on the part of the recipient to receive no further unsolicited commercial facsimile transmissions and shall be served by certified mail, return receipt requested, or by facsimile transmission.

WV Legislature