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COMMERCIAL EMAIL ACT

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies the Utah Commercial Email Act.

Highlighted Provisions:

This bill:

- changes the definition of Utah email address; and
- modifies provisions regarding the prohibited uses of email.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-65-101, as enacted by Laws of Utah 2023, Chapter 377

13-65-201, as enacted by Laws of Utah 2023, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-65-101** is amended to read:

13-65-101 . Definitions.

As used in this chapter:

- (1) "Advertiser" means a person who advertises the person's product, service, or website through the use of commercial email.
- (2) "Commercial email" means an email used primarily to:
 - (a) advertise or promote a commercial website, product, or service; or
 - (b) solicit money, property, or personal information.
- (3) "Division" means the Division of Consumer Protection.

- 29 (4) "Domain name" means any alphanumeric designation that is registered with or assigned
30 by any domain name registrar, domain name registry, or other domain name registration
31 authority as part of an electronic address on the Internet.
- 32 (5) "Electronic mail service provider" means a company or a service that provides routing,
33 relaying, handling, storage, or support for email addresses and email inboxes.
- 34 (6) "Header information" means information attached to an email, including:
35 (a) the originating domain name;
36 (b) the originating email address;
37 (c) the destination;
38 (d) the routing information; and
39 (e) any other information that appears in the header line identifying, or purporting to
40 identify, a person initiating the message.
- 41 (7) "Initiate" means an act of:
42 (a) originating, transmitting, or sending commercial email; or
43 (b) promising, paying, or providing other consideration for another person to originate,
44 transmit, or send a commercial email.
- 45 (8) (a) "Initiator" means a person who:
46 (i) originates, transmits, or sends commercial email; or
47 (ii) promises, pays, or provides other consideration for another person to originate,
48 transmit, or send a commercial email.
- 49 (b) "Initiator" does not include a person whose activities are a routine conveyance.
- 50 (9) "Preexisting or current business relationship" means a situation where the recipient has:
51 (a) made an inquiry and provided an email address; or
52 (b) made an application, a purchase, or a transaction, with or without consideration,
53 related to a product or a service offered by the advertiser.
- 54 (10) "Recipient" means an addressee of an unsolicited email.
- 55 (11) "Routine conveyance" means an Internet service provider's or email provider's
56 automatic electronic mail message processes, including routing, relaying, handling, or
57 storing through an automatic technical process, for which a person other than the
58 Internet service provider or email provider has identified the electronic mail message
59 recipients and provided the recipients' addresses.
- 60 (12) "Unsolicited commercial email" means a commercial email sent by an advertiser to a
61 recipient that:
62 (a) has not provided direct consent to the advertiser to receive the commercial email; and

- 63 (b) does not have a preexisting or current relationship with the advertiser.
- 64 (13) "Utah email address" means an email address that [is]:
- 65 (a) is provided by an electronic mail service provider that sends bills for providing and
- 66 maintaining that email address to a mailing address in this state;
- 67 (b) is ordinarily accessed from a computer located in this state; [or]
- 68 (c) is provided to an individual who is currently a resident of this state; or
- 69 (d) results in delivery of an email to a server in Utah.

70 Section 2. Section **13-65-201** is amended to read:

71 **13-65-201 . Prohibited uses of email.**

72 An advertiser or an initiator may not [~~knowingly~~]initiate or advertise in a

73 commercial email sent from this state or sent to a Utah email address if:

- 74 (1) the commercial email contains or is accompanied by a third party's domain name
- 75 without the permission of the third party;
- 76 (2) the commercial email contains or is accompanied by false, misrepresented, or forged
- 77 header information, even if the commercial email contains truthful identifying
- 78 information for the advertiser in the body of the email; or
- 79 (3) the commercial email has a subject line that is likely to mislead a recipient, acting
- 80 reasonably under the circumstances, about a material fact regarding the identity of the
- 81 advertiser, the contents, or the subject matter of the commercial email.

82 Section 3. **Effective date.**

83 This bill takes effect on May 1, 2024.