

CHAPTER 130

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 04-1125

BY REPRESENTATIVE(S) McFadyen, Borodkin, Boyd, Butcher, Carroll, Cloer, Coleman, Crane, Decker, Frangas, Garcia, Hefley, Hodge, Larson, Madden, Marshall, McGihon, Merrifield, Miller, Paccione, Plant, Pommer, Romanoff, Salazar, Vigil, Weissmann, Welker, and Williams S.;
also SENATOR(S) Chlouber, Anderson, Andrews, Arnold, Dyer, Gordon, Groff, Grossman, Hagedorn, Hanna, Isgar, Johnson S., Jones, McElhany, Tapia, Tupa, Veiga, and Windels.

AN ACT**CONCERNING A DECEPTIVE TRADE PRACTICE FOR VIOLATIONS OF FEDERAL LAW RELATED TO UNSOLICITED FACSIMILES.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 6-1-702, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6-1-702. Unsolicited facsimiles - deceptive trade practice. (1) A PERSON ENGAGES IN A DECEPTIVE TRADE PRACTICE WHEN, IN THE COURSE OF SUCH PERSON'S BUSINESS, VOCATION, OR OCCUPATION, SUCH PERSON:

(a) USES A TELEPHONE FACSIMILE MACHINE, COMPUTER, OR OTHER DEVICE TO SEND AN UNSOLICITED ADVERTISEMENT TO A TELEPHONE FACSIMILE MACHINE;

(b) USES A COMPUTER OR OTHER ELECTRONIC DEVICE TO SEND ANY MESSAGE VIA A TELEPHONE FACSIMILE MACHINE UNLESS SUCH PERSON CLEARLY MARKS, IN A MARGIN AT THE TOP OR BOTTOM OF EACH TRANSMITTED PAGE OF THE MESSAGE OR ON THE FIRST PAGE OF THE TRANSMISSION:

(I) THE DATE AND TIME THE FACSIMILE IS SENT;

(II) AN IDENTIFICATION OF THE PERSON SENDING THE FACSIMILE; AND

(III) THE TELEPHONE NUMBER OF THE SENDING MACHINE OF THE PERSON; OR

(c) VIOLATES 47 U.S.C. SEC. 227 OR ANY RULE PROMULGATED THEREUNDER.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) FOR THE PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "TELEPHONE FACSIMILE MACHINE" MEANS EQUIPMENT THAT HAS THE CAPACITY TO:

(I) TRANSCRIBE TEXT OR IMAGES FROM PAPER INTO AN ELECTRONIC SIGNAL AND TO TRANSMIT THAT SIGNAL OVER A REGULAR TELEPHONE LINE; OR

(II) TRANSCRIBE TEXT OR IMAGES FROM AN ELECTRONIC SIGNAL RECEIVED OVER A REGULAR TELEPHONE LINE ONTO PAPER.

(b) "UNSOLICITED ADVERTISEMENT" MEANS MATERIAL THAT ADVERTISES THE COMMERCIAL AVAILABILITY OR QUALITY OF ANY PROPERTY, GOOD, OR SERVICE AND THAT IS TRANSMITTED TO A PERSON WITHOUT THAT PERSON'S PRIOR EXPRESS INVITATION OR PERMISSION.

SECTION 2. 6-1-105 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of such person's business, vocation, or occupation, such person:

(vv) VIOLATES ANY PROVISION OF SECTION 6-1-702.

SECTION 3. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 4, 2004, if adjournment sine die is on May 5, 2004); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to facsimile transmissions sent on or after the applicable effective date of this act.

Approved: April 8, 2004