

CHAPTER 133

CONSUMER AND COMMERCIAL TRANSACTIONS

HOUSE BILL 05-1059

BY REPRESENTATIVE(S) McFadyen, Boyd, Buescher, Cloer, Coleman, Hodge, Marshall, and Merrifield;
also SENATOR(S) Veiga and McElhany.

AN ACT**CONCERNING SPECIFIED EXEMPTIONS FROM THE PROHIBITION AGAINST SENDING UNSOLICITED FACSIMILES.**

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

SECTION 1. 6-1-702, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

6-1-702. Unsolicited facsimiles - deceptive trade practice. (3) (a) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO:

(I) A PERSON WHO HAS AN EXISTING BUSINESS RELATIONSHIP WITH THE PERSON RECEIVING A FACSIMILE; OR

(II) A NONPROFIT ORGANIZATION OPERATING PURSUANT TO 26 U.S.C. SEC. 501 (c) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, THAT SENDS A FACSIMILE TO A NONMEMBER RECIPIENT, IF THE NONPROFIT ORGANIZATION HAS RECEIVED, BY FACSIMILE OR OTHER MEANS, SUCH NONMEMBER RECIPIENT'S PRIOR EXPRESS WRITTEN INVITATION OR PERMISSION TO DELIVER FACSIMILES THAT INCLUDES THE RECIPIENT'S SIGNATURE AND FACSIMILE NUMBER.

(b) FOR THE PURPOSES OF THIS SUBSECTION (3), "EXISTING BUSINESS RELATIONSHIP" MEANS A RELATIONSHIP FORMED BY A VOLUNTARY TWO-WAY COMMUNICATION BETWEEN A PERSON OR ENTITY AND A RESIDENTIAL OR BUSINESS SUBSCRIBER, WITH OR WITHOUT AN EXCHANGE OF CONSIDERATION ON THE BASIS OF AN INQUIRY, APPLICATION, PURCHASE, MEMBERSHIP, OR TRANSACTION BY THE RESIDENTIAL OR BUSINESS SUBSCRIBER REGARDING PRODUCTS OR SERVICES OFFERED BY SUCH PERSON OR ENTITY.

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

SECTION 2. Applicability. This act shall apply to facsimile transmissions on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 4, 2005