

11 Del. C. § 937

This document is current through 84 Del. Laws, c. 254.

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§ 937. Unrequested or unauthorized electronic mail or use of network or software to cause same.

A person is guilty of the computer crime of unrequested or unauthorized electronic mail:

- (1) When that person, without authorization, intentionally or recklessly distributes any unsolicited bulk commercial electronic mail (commercial E-mail) to any receiving address or account under the control of any authorized user of a computer system. This section shall not apply to electronic mail that is sent between human beings, or when the individual has requested said information. This section shall not apply to the transmission of electronic mail from an organization to its members or where there is a preexisting business relationship. No Internet/interactive service provider shall be liable for merely transmitting an unsolicited, bulk commercial electronic mail message in its network. No Internet/interactive service provider shall be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any unsolicited, bulk electronic mail which it believes is, or will be, sent in violation to disconnect or terminate the service of any person that is in violation of this article; or
- (2) When a person uses a computer or computer network without authority with the intent to: Falsify or forge electronic mail transmission information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers; or
- (3) When a person sells, gives or otherwise distributes or possesses with the intent to sell, give or distribute software which:
 - a. Is primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information;
 - b. Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information; or
 - c. Is marketed by that person or another acting in concert with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(4) For the purposes of this section, conduct occurring outside of the State shall be sufficient to constitute this offense if such conduct is within the terms of § 204 of this title, or if the receiving address or account was under the control of any authorized user of a computer system who was located in Delaware at the time the authorized user received the electronic mail or communication and the defendant was aware of circumstances which rendered the presence of such authorized user in Delaware a reasonable possibility.

History

72 Del. Laws, c. 135, § 1; 70 Del. Laws, c. 186, § 1.

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