

**CALIFORNIA BUSINESS AND PROFESSIONS CODE**  
**DIVISION 7, PART 3, CHAPTER 1**  
**ARTICLE 1.8. Restrictions On Unsolicited Commercial E-mail Advertisers**  
**(effective January 1, 2004)**

- 17529.5. (a) It is unlawful for any person or entity to advertise in a commercial e-mail advertisement either sent from California or sent to a California electronic mail address under any of the following circumstances:
- (1) The e-mail advertisement contains or is accompanied by a third-party's domain name without the permission of the third party.
  - (2) The e-mail advertisement contains or is accompanied by falsified, misrepresented, or forged header information. This paragraph does not apply to truthful information used by a third party who has been lawfully authorized by the advertiser to use that information.
  - (3) The e-mail advertisement has a subject line that a person knows would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message.
- (b) (1) (A) In addition to any other remedies provided by any other provision of law, the following may bring an action against a person or entity that violates any provision of this section:
- (i) The Attorney General.
  - (ii) An electronic mail service provider.
  - (iii) A recipient of an unsolicited commercial e-mail advertisement, as defined in Section 17529.1.
- (B) A person or entity bringing an action pursuant to subparagraph (A) may recover either or both of the following:
- (i) Actual damages.
  - (ii) Liquidated damages of one thousand dollars (\$1,000) for each unsolicited commercial e-mail advertisement transmitted in violation of this section, up to one million dollars (\$1,000,000) per incident.
- (C) The recipient, an electronic mail service provider, or the Attorney General, if the prevailing plaintiff, may also recover reasonable attorney's fees and costs.
- (D) However, there shall not be a cause of action under this section against an electronic mail service provider that is only involved in the routine transmission of the e-mail advertisement over its computer network.
- (2) If the court finds that the defendant established and implemented, with due care, practices and procedures reasonably designed to effectively prevent unsolicited commercial e-mail advertisements that are in violation of this section, the court shall reduce the liquidated damages recoverable under paragraph (1) to a maximum of one hundred dollars (\$100) for each unsolicited commercial e-mail advertisement, or a maximum of one hundred thousand dollars (\$100,000) per incident.
- (3) (A) A person who has brought an action against a party under this section

shall not bring an action against that party under Section 17529.8 or 17538.45 for the same commercial e-mail advertisement, as defined in subdivision (c) of Section 17529.1.

(B) A person who has brought an action against a party under Section 17529.8 or 17538.45 shall not bring an action against that party under this section for the same commercial e-mail advertisement, as defined in subdivision (c) of Section 17529.1.

(c) A violation of this section is a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000), imprisonment in a county jail for not more than six months, or both that fine and imprisonment.