

Part 3 Enforcement

13-39-301 Criminal penalty.

- (1) A person who violates Section 13-39-202 commits a computer crime and:
 - (a) is guilty of a class B misdemeanor for a first offense with respect to a contact point registered with the division under Subsection 13-39-201(3)(a); and
 - (b) is guilty of a class A misdemeanor:
 - (i) for each subsequent violation with respect to a contact point registered with the division under Subsection 13-39-201(3)(a); or
 - (ii) for each violation with respect to a domain name registered with the division under Subsection 13-39-201(3)(b).
- (2) A person commits a computer crime and is guilty of a second degree felony if the person:
 - (a) uses information obtained from the division under this chapter to violate Section 13-39-202;
 - (b) improperly:
 - (i) obtains contact points from the registry; or
 - (ii) attempts to obtain contact points from the registry; or
 - (c) uses, or transfers to a third party to use, information from the registry to send a solicitation.
- (3) A criminal conviction or penalty under this section does not relieve a person from civil liability in an action under Section 13-39-302.
- (4) Each communication sent in violation of Section 13-39-202 is a separate offense under this section.

Enacted by Chapter 338, 2004 General Session

13-39-302 Civil action for violation.

- (1) For a violation of Section 13-39-202, an action may be brought by:
 - (a) a user of a contact point or domain name registered with the division under Section 13-39-201; or
 - (b) a legal guardian of a user described in Subsection (1)(a).
- (2) In each action under Subsection (1):
 - (a) a person described in Subsection (1) may recover the greater of:
 - (i) actual damages; or
 - (ii) \$1,000 for each communication sent in violation of Section 13-39-202; and
 - (b) the prevailing party shall be awarded costs and reasonable attorney fees.

Enacted by Chapter 338, 2004 General Session

13-39-303 Administrative enforcement.

- (1) The division shall:
 - (a) investigate violations of this chapter; and
 - (b) assess cease and desist orders and administrative fines under this section for violations of this chapter.
- (2) A person who violates this chapter is subject to:
 - (a) a cease and desist order; and
 - (b) an administrative fine of not more than \$2,500 for each separate communication sent in violation of Section 13-39-202.

- (3)
- (a) A person who intentionally violates this chapter is subject to an administrative fine of not more than \$5,000 for each communication intentionally sent in violation of Section 13-39-202.
 - (b) For purposes of this section, a person intentionally violates this chapter if the violation occurs after the division, attorney general, or a district or county attorney notifies the person by certified mail that the person is in violation of this chapter.
- (4) All administrative fines collected under this section shall be deposited in the Consumer Protection Education and Training Fund created in Section 13-2-8.

Enacted by Chapter 338, 2004 General Session

13-39-304 Defenses.

It is a defense to an action brought under this chapter that a person:

- (1) reasonably relied on the mechanism established by the division under Subsection 13-39-203(2); and
- (2) took reasonable measures to comply with this chapter.

Enacted by Chapter 338, 2004 General Session