

**77-23b-8 Violation of chapter -- Civil action by provider or subscriber -- Good faith defense -- Limitation of action.**

- (1) Except under Subsection 77-23b-4(5), any provider of electronic communications service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may in a civil action recover from the person or entity that engaged in that violation relief as is appropriate.
- (2) In a civil action under this section, appropriate relief includes:
  - (a) preliminary and other equitable or declaratory relief as is appropriate;
  - (b) damages under Subsection (3); and
  - (c) a reasonable attorney's fee and other litigation costs reasonably incurred.
- (3) The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case is a person entitled to recover less than \$1,000.
- (4) A good faith reliance on any of the following is a complete defense to any civil or criminal action brought under this chapter or any other law:
  - (a) a court warrant or order, a grand jury subpoena, legislative authorization, or a statutory authorization;
  - (b) a request of an investigative or law enforcement officer under Subsection 77-23a-10(7); or
  - (c) a good faith determination that Subsection 77-23a-4(9) permitted the conduct complained of.
- (5) A civil action under this section may not be commenced later than two years after the date the claimant first discovered or had a reasonable opportunity to discover the violation.

Amended by Chapter 22, 1989 General Session

Amended by Chapter 122, 1989 General Session