

COMMERCIAL EMAIL ACT

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies the Utah Commercial Email Act.

Highlighted Provisions:

This bill:

- ▶ changes the definition of Utah email address; and
- ▶ modifies provisions regarding the prohibited uses of email.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-65-101, as enacted by Laws of Utah 2023, Chapter 377

13-65-201, as enacted by Laws of Utah 2023, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-65-101** is amended to read:

13-65-101. Definitions.

As used in this chapter:

- (1) "Advertiser" means a person who advertises the person's product, service, or



28 website through the use of commercial email.

29 (2) "Commercial email" means an email used primarily to:

30 (a) advertise or promote a commercial website, product, or service; or

31 (b) solicit money, property, or personal information.

32 (3) "Division" means the Division of Consumer Protection.

33 (4) "Domain name" means any alphanumeric designation that is registered with or
34 assigned by any domain name registrar, domain name registry, or other domain name
35 registration authority as part of an electronic address on the Internet.

36 (5) "Electronic mail service provider" means a company or a service that provides
37 routing, relaying, handling, storage, or support for email addresses and email inboxes.

38 (6) "Header information" means information attached to an email, including:

39 (a) the originating domain name;

40 (b) the originating email address;

41 (c) the destination;

42 (d) the routing information; and

43 (e) any other information that appears in the header line identifying, or purporting to
44 identify, a person initiating the message.

45 (7) "Initiate" means an act of:

46 (a) originating, transmitting, or sending commercial email; or

47 (b) promising, paying, or providing other consideration for another person to originate,
48 transmit, or send a commercial email.

49 (8) (a) "Initiator" means a person who:

50 (i) originates, transmits, or sends commercial email; or

51 (ii) promises, pays, or provides other consideration for another person to originate,
52 transmit, or send a commercial email.

53 (b) "Initiator" does not include a person whose activities are a routine conveyance.

54 (9) "Preexisting or current business relationship" means a situation where the recipient
55 has:

56 (a) made an inquiry and provided an email address; or

57 (b) made an application, a purchase, or a transaction, with or without consideration,
58 related to a product or a service offered by the advertiser.

59 (10) "Recipient" means an addressee of an unsolicited email.

60 (11) "Routine conveyance" means an Internet service provider's or email provider's
61 automatic electronic mail message processes, including routing, relaying, handling, or storing
62 through an automatic technical process, for which a person other than the Internet service
63 provider or email provider has identified the electronic mail message recipients and provided
64 the recipients' addresses.

65 (12) "Unsolicited commercial email" means a commercial email sent by an advertiser
66 to a recipient that:

67 (a) has not provided direct consent to the advertiser to receive the commercial email;
68 and

69 (b) does not have a preexisting or current relationship with the advertiser.

70 (13) "Utah email address" means an email address that [~~is~~]:

71 (a) is provided by an electronic mail service provider that sends bills for providing and
72 maintaining that email address to a mailing address in this state;

73 (b) is ordinarily accessed from a computer located in this state; [~~or~~]

74 (c) is provided to an individual who is currently a resident of this state; or

75 (d) results in delivery of an email to a server in Utah.

76 Section 2. Section **13-65-201** is amended to read:

77 **13-65-201. Prohibited uses of email.**

78 An advertiser or an initiator may not [~~knowingly~~] initiate or advertise in a commercial
79 email sent from this state or sent to a Utah email address if:

80 (1) the commercial email contains or is accompanied by a third party's domain name
81 without the permission of the third party;

82 (2) the commercial email contains or is accompanied by false, misrepresented, or
83 forged header information, even if the commercial email contains truthful identifying
84 information for the advertiser in the body of the email; or

85 (3) the commercial email has a subject line that is likely to mislead a recipient, acting
86 reasonably under the circumstances, about a material fact regarding the identity of the
87 advertiser, the contents, or the subject matter of the commercial email.

88 Section 3. **Effective date.**

89 This bill takes effect on May 1, 2024.