

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 07-0696.01 Duane Gall

HOUSE BILL 07-1303

HOUSE SPONSORSHIP

Gagliardi, and Solano

SENATE SPONSORSHIP

(None),

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY OF A PERSON TO REFUSE UNWANTED**
102 **COMMERCIAL MAIL, AND, IN CONNECTION THEREWITH,**
103 **ENACTING THE "COLORADO JUNK MAIL OPT-OUT LIST ACT"**
104 **CONTAINING EXEMPTIONS FOR CHARITABLE NONPROFIT**
105 **ORGANIZATIONS, POLITICAL ORGANIZATIONS, AND BUSINESSES**
106 **WITH WHICH THE PERSON HAS AN ESTABLISHED BUSINESS**
107 **RELATIONSHIP.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

Adopts a junk mail opt-out list, similar in form and operation to the existing no-call list for telephone solicitations. Directs the Colorado public utilities commission to solicit bids and contract with a junk mail opt-out list administrator (designated agent) to maintain a list of addresses of persons who desire to reject all unsolicited commercial mailings (junk mail). Requires the designated agent to maintain a web site and a toll-free telephone number for the use of postal patrons who wish to put their address on the list.

Requires all persons who wish to send junk mail to purchase an updated list of addresses and to remove those addresses from their own mailing list. Directs the designated agent to update the list periodically using information provided by postal patrons and by the United States postal service.

Allows a person whose address is on the list and who receives junk mail to sue the sender and collect a \$500 civil penalty. Allows the attorney general to bring actions against repeat offenders seeking civil penalties and injunctive relief.

Exempts charitable nonprofit organizations, political organizations, and businesses with which a postal patron has an established business relationship.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Article 1 of title 6, Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PART to read:

4 **PART 12**

5 **JUNK MAIL OPT-OUT LIST**

6 **6-1-1201. Short title.** THIS PART 12 SHALL BE KNOWN AND MAY
7 BE CITED AS THE "COLORADO JUNK MAIL OPT-OUT LIST ACT".

8 **6-1-1202. Legislative declaration.** (1) THE GENERAL ASSEMBLY
9 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

10 (a) UNSOLICITED BULK MAIL ("JUNK MAIL") NOW REPRESENTS A
11 MAJOR PORTION OF THE BUDGET AND WORKLOAD OF THE UNITED STATES
12 POSTAL SERVICE, WITH OVER NINETY BILLION PIECES DELIVERED PER YEAR,
13 AND, BASED ON DATA SUPPLIED BY THE UNITED STATES ENVIRONMENTAL
14 PROTECTION AGENCY AND THE NATIONAL SOLID WASTE MANAGEMENT

1 ASSOCIATION, ANNUALLY ACCOUNTS FOR OVER THREE HUNDRED FORTY
2 MILLION POUNDS OF TRASH IN COLORADO ALONE, REQUIRING DISPOSAL AT
3 A COST OF OVER FOUR MILLION DOLLARS, AND THE DESTRUCTION OF ONE
4 HUNDRED MILLION TREES NATIONWIDE FOR PAPER PULP;

5 (b) THE PROLIFERATION OF JUNK MAIL HAS INCLUDED A SHARP RISE
6 IN THE NUMBER OF DECEPTIVELY PACKAGED COMMERCIAL SOLICITATIONS
7 THAT HAVE BEEN USED TO PERPETRATE FRAUD AGAINST THE ELDERLY AND
8 THE UNSOPHISTICATED;

9 (c) MANY CITIZENS OF THIS STATE VIEW JUNK MAIL AS AN
10 IMPOSITION ON THEIR TIME, AN INVASION OF THEIR PRIVACY, AND AN
11 ENVIRONMENTAL SACRILEGE;

12 (d) INDIVIDUAL RIGHTS AND COMMERCIAL FREEDOM OF SPEECH
13 SHOULD BE BALANCED IN A WAY THAT ACCOMMODATES BOTH INDIVIDUAL
14 CHOICE AND LEGITIMATE MARKETING PRACTICES;

15 (e) ALTHOUGH SMALL BUSINESSES AND CHARITABLE AND
16 POLITICAL ORGANIZATIONS ARE EXEMPT FROM THIS PART 12 IN ORDER NOT
17 TO HAMPER THE FREE FLOW OF IDEAS IN OUR DEMOCRACY, THE GENERAL
18 ASSEMBLY ENCOURAGES SUCH ORGANIZATIONS TO VOLUNTARILY COMPLY
19 WITH THIS PART 12 WHEN POSSIBLE; AND

20 (f) IT IS IN THE PUBLIC INTEREST TO ESTABLISH A MECHANISM
21 UNDER WHICH THE RESIDENTS OF THIS STATE CAN DECIDE WHETHER OR
22 NOT TO RECEIVE JUNK MAIL.

23 **6-1-1203. Definitions.** AS USED IN THIS PART 12, UNLESS THE
24 CONTEXT OTHERWISE REQUIRES:

25 (1) "BULK MAILER" MEANS A PERSON THAT SENDS, ON BEHALF OF
26 ITSELF OR ANOTHER PERSON, SUBSTANTIALLY SIMILAR PIECES OF MAIL TO
27 TWENTY-FIVE OR MORE POSTAL PATRONS.

1 (2) "CONFORMING CONSOLIDATED JUNK MAIL OPT-OUT LIST"
2 MEANS ANY DATABASE THAT INCLUDES ADDRESSES OF POSTAL PATRONS
3 THAT DO NOT WISH TO RECEIVE JUNK MAIL, IF SUCH DATABASE HAS BEEN
4 UPDATED WITHIN THE IMMEDIATELY PRECEDING THIRTY DAYS TO INCLUDE
5 ALL OF THE ADDRESSES ON THE COLORADO JUNK MAIL OPT-OUT LIST.

6 (3) "CONFORMING LIST BROKER" MEANS ANY PERSON THAT
7 PROVIDES LISTS FOR THE PURPOSE OF BULK MAILINGS, IF EVERY ADDRESS
8 THAT IS INCLUDED ON THE COLORADO JUNK MAIL OPT-OUT LIST HAS BEEN
9 REMOVED FROM SUCH LISTS AT LEAST EVERY THIRTY DAYS.

10 (4) "DESIGNATED AGENT" MEANS THE PARTY WITH WHICH THE
11 PUBLIC UTILITIES COMMISSION CREATED IN SECTION 40-2-101, C.R.S.,
12 CONTRACTS UNDER SECTION 6-1-1205 (2).

13 (5) (a) "ESTABLISHED BUSINESS RELATIONSHIP" MEANS A
14 RELATIONSHIP THAT:

15 (I) WAS FORMED, PRIOR TO THE SENDING OF JUNK MAIL, THROUGH
16 A VOLUNTARY, TWO-WAY COMMUNICATION BETWEEN A SELLER OR BULK
17 MAILER AND A POSTAL PATRON, WITH OR WITHOUT CONSIDERATION, ON
18 THE BASIS OF AN APPLICATION, PURCHASE, ONGOING CONTRACTUAL
19 AGREEMENT, OR COMMERCIAL TRANSACTION BETWEEN THE PARTIES
20 REGARDING PRODUCTS OR SERVICES OFFERED BY SUCH SELLER OR BULK
21 MAILER;

22 (II) HAS NOT BEEN PREVIOUSLY TERMINATED BY EITHER PARTY;
23 AND

24 (III) CURRENTLY EXISTS OR HAS EXISTED WITHIN THE
25 IMMEDIATELY PRECEDING ONE HUNDRED EIGHTY DAYS.

26 (b) "ESTABLISHED BUSINESS RELATIONSHIP", WITH RESPECT TO A
27 FINANCIAL INSTITUTION, AS DEFINED IN SECTION 527 OF THE FEDERAL

1 "GRAMM-LEACH-BLILEY ACT", PUB. L. 106-102, 113 STAT. 1388, AS
2 AMENDED, OR AN AFFILIATE THEREOF, INCLUDES ANY SITUATION IN WHICH
3 A FINANCIAL INSTITUTION OR AFFILIATE MAKES BULK MAILINGS RELATED
4 TO OTHER FINANCIAL SERVICES OFFERED, IF THE FINANCIAL INSTITUTION
5 OR AFFILIATE IS SUBJECT TO THE REQUIREMENTS REGARDING PRIVACY OF
6 TITLE V OF THE FEDERAL "GRAMM-LEACH-BLILEY ACT", PUB.L. 106-102,
7 113 STAT. 1388, AS AMENDED, AND THE FINANCIAL INSTITUTION OR
8 AFFILIATE REGULARLY CONDUCTS BUSINESS IN COLORADO.

9 (6) (a) "JUNK MAIL" MEANS ANY PRINTED MATTER SENT BY MAIL
10 FOR THE PURPOSE OF ENCOURAGING THE PURCHASE OR RENTAL OF, OR
11 INVESTMENT IN, PROPERTY, GOODS, OR SERVICES.

12 (b) NOTWITHSTANDING PARAGRAPH (a) OF THIS SUBSECTION (6),
13 "JUNK MAIL" DOES NOT INCLUDE COMMUNICATIONS:

14 (I) TO ANY POSTAL PATRON WITH THAT POSTAL PATRON'S PRIOR
15 EXPRESS INVITATION OR PERMISSION;

16 (II) BY OR ON BEHALF OF ANY PERSON WITH WHOM A POSTAL
17 PATRON HAS AN ESTABLISHED BUSINESS RELATIONSHIP;

18 (III) BY OR ON BEHALF OF A SMALL BUSINESS;

19 (IV) BY OR ON BEHALF OF AN ENTITY ORGANIZED UNDER SECTION
20 501 (c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
21 AMENDED, WHILE SUCH ENTITY IS ENGAGED IN FUND-RAISING TO SUPPORT
22 THE CHARITABLE PURPOSE FOR WHICH THE ENTITY WAS ESTABLISHED;

23 (V) BY OR ON BEHALF OF A POLITICAL PARTY, POLITICAL
24 COMMITTEE, CAMPAIGN COMMITTEE, CANDIDATE COMMITTEE, OR ENTITY
25 ORGANIZED UNDER SECTION 527 OF THE FEDERAL "INTERNAL REVENUE
26 CODE OF 1986", AS AMENDED, WHILE SUCH ENTITY IS ENGAGED IN
27 POLITICAL SPEECH OR FUND-RAISING FOR POLITICAL PURPOSES; OR

1 (VI) BY A NATURAL PERSON RESPONDING TO A REFERRAL, OR
2 WORKING FROM HIS OR HER PRIMARY RESIDENCE, OR A PERSON LICENSED
3 OR REGISTERED IN COLORADO TO CARRY ON A TRADE, OCCUPATION, OR
4 PROFESSION WHO IS SETTING OR ATTEMPTING TO SET AN APPOINTMENT FOR
5 ACTIONS RELATING TO THAT LICENSED TRADE, OCCUPATION, OR
6 PROFESSION WITHIN COLORADO OR COUNTIES CONTIGUOUS TO COLORADO.

7 (7) "POSTAL PATRON" MEANS ANY PERSON HAVING A MAILING
8 ADDRESS IN COLORADO, AS SHOWN BY RECORDS OF THE UNITED STATES
9 POSTAL SERVICE.

10 (8) "SMALL BUSINESS" MEANS A BUSINESS ENTITY WITH THREE OR
11 FEWER EMPLOYEES.

12 **6-1-1204. Unlawful to send junk mail to postal patrons on the**
13 **Colorado junk mail opt-out list - requirements for junk mail**
14 **generally.** (1) (a) NO PERSON SHALL SEND OR CAUSE TO BE SENT ANY
15 JUNK MAIL TO THE ADDRESS OF ANY POSTAL PATRON WHO HAS ADDED
16 THAT ADDRESS TO THE COLORADO JUNK MAIL OPT-OUT LIST IN
17 ACCORDANCE WITH RULES PROMULGATED UNDER SECTION 6-1-1205.

18 (b) A PERSON THAT SENDS JUNK MAIL TO THE ADDRESS OF ANY
19 POSTAL PATRON SHALL REGISTER IN ACCORDANCE WITH SECTION 6-1-1205
20 (3) (b) (II).

21 (2) ON OR AFTER JANUARY 1, 2008, OR UPON THE INITIAL
22 AVAILABILITY AND ACCESSIBILITY OF THE COLORADO JUNK MAIL OPT-OUT
23 LIST, WHICHEVER IS EARLIER, A PERSON THAT DESIRES TO SEND JUNK MAIL
24 SHALL UPDATE THE PERSON'S COPY OF THE COLORADO JUNK MAIL OPT-OUT
25 LIST, CONFORMING CONSOLIDATED JUNK MAIL OPT-OUT LIST, OR A LIST
26 OBTAINED FROM A CONFORMING LIST BROKER WITHIN THIRTY DAYS AFTER
27 THE BEGINNING OF EVERY CALENDAR QUARTER.

1 **6-1-1205. Establishment and operation of a Colorado junk**
2 **mail opt-out list - rules - registration.** (1) THE COLORADO JUNK MAIL
3 OPT-OUT LIST PROGRAM IS HEREBY CREATED FOR THE PURPOSE OF
4 ESTABLISHING A DATABASE TO USE WHEN VERIFYING POSTAL PATRONS
5 WHO HAVE GIVEN NOTICE, IN ACCORDANCE WITH RULES PROMULGATED
6 UNDER PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION, OF SUCH
7 POSTAL PATRONS' OBJECTION TO RECEIVING JUNK MAIL. THE PUBLIC
8 UTILITIES COMMISSION SHALL ADMINISTER THE PROGRAM.

9 (2) NOT LATER THAN JANUARY 1, 2008, THE PUBLIC UTILITIES
10 COMMISSION SHALL CONTRACT WITH A DESIGNATED AGENT, WHICH SHALL
11 MAINTAIN THE WEB SITE AND DATABASE CONTAINING THE COLORADO
12 JUNK MAIL OPT-OUT LIST. IF NO MORE THAN ONE ENTITY BIDS ON THE
13 CONTRACT, THE PUBLIC UTILITIES COMMISSION MAY AWARD SUCH
14 CONTRACT AT ITS DISCRETION.

15 (3) (a) NOT LATER THAN JANUARY 1, 2008, THE DESIGNATED
16 AGENT, USING THE DESIGNATED STATE INTERNET WEB SITE, SHALL
17 DEVELOP AND MAINTAIN THE COLORADO JUNK MAIL OPT-OUT LIST
18 DATABASE WITH INFORMATION PROVIDED BY POSTAL PATRONS.

19 (b) THE PUBLIC UTILITIES COMMISSION SHALL ESTABLISH, BY RULE,
20 GUIDELINES FOR THE DESIGNATED AGENT FOR THE DEVELOPMENT AND
21 MAINTENANCE OF THE COLORADO JUNK MAIL OPT-OUT LIST SO THAT THE
22 JUNK MAIL OPT-OUT LIST CAN EASILY BE ACCESSED BY PERSONS DESIRING
23 TO SEND JUNK MAIL AND BY STATE AND LOCAL LAW ENFORCEMENT
24 AGENCIES. AS SOON AS PRACTICABLE, THE PUBLIC UTILITIES COMMISSION
25 SHALL PROMULGATE RULES THAT:

26 (I) SPECIFY THAT THERE SHALL BE NO COST FOR A POSTAL PATRON
27 TO PROVIDE NOTIFICATION TO THE DESIGNATED AGENT THAT SUCH POSTAL

1 PATRON OBJECTS TO RECEIVING JUNK MAIL;

2 (II) SPECIFY THAT THERE SHALL BE AN ANNUAL REGISTRATION FEE
3 OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR PERSONS OR ENTITIES
4 THAT WISH TO SEND JUNK MAIL OR OTHERWISE ACCESS THE DATABASE OF
5 ADDRESSES CONTAINED IN THE COLORADO JUNK MAIL OPT-OUT LIST
6 DATABASE. THE PUBLIC UTILITIES COMMISSION SHALL DETERMINE SUCH
7 FEE ON A SLIDING SCALE SO THAT PERSONS OR ENTITIES WITH FEWER THAN
8 FIVE EMPLOYEES SHALL PAY NO FEE. IN ADDITION, THERE SHALL BE NO
9 FEE CHARGED TO CONFORMING LIST BROKERS OR NONPROFIT
10 CORPORATIONS, AS DEFINED IN SECTION 7-121-401, C.R.S. THE MAXIMUM
11 FEE SHALL BE CHARGED ONLY TO PERSONS WITH MORE THAN ONE
12 THOUSAND EMPLOYEES. MONEYS COLLECTED FROM SUCH FEES SHALL
13 COVER THE DIRECT AND INDIRECT COSTS RELATED TO THE CREATION AND
14 OPERATION OF THE COLORADO JUNK MAIL OPT-OUT LIST. MONEYS FROM
15 SUCH FEES SHALL BE COLLECTED BY AND PAID DIRECTLY TO THE
16 DESIGNATED AGENT. THE PUBLIC UTILITIES COMMISSION ANNUALLY
17 ADJUST THE FEES BELOW THE STATED MAXIMUM BASED ON REVENUE
18 HISTORY OF THE FEES RECEIVED BY THE DESIGNATED AGENT. THE
19 DESIGNATED AGENT SHALL PROVIDE MEANS FOR ON-LINE REGISTRATION
20 AND CREDIT CARD PAYMENT OF FEES CHARGED PURSUANT TO THIS
21 SUBPARAGRAPH (II). EACH SUCH PERSON SHALL PROVIDE A CURRENT
22 BUSINESS NAME, BUSINESS ADDRESS, EMAIL ADDRESS IF AVAILABLE, AND
23 TELEPHONE NUMBER WHEN INITIALLY REGISTERING FOR THE JUNK MAIL
24 OPT-OUT LIST. THIS INFORMATION SHALL BE UPDATED WHEN CHANGES
25 OCCUR.

26 (III) SPECIFY THAT THE METHOD BY WHICH EACH POSTAL PATRON
27 MAY GIVE NOTICE TO THE DESIGNATED AGENT OF HIS OR HER OBJECTION

1 TO RECEIVING JUNK MAIL, OR MAY REVOKE SUCH NOTICE, SHALL BE
2 EXCLUSIVELY BY ENTERING THE ADDRESS OF THE POSTAL PATRON
3 DIRECTLY INTO THE DATABASE VIA THE DESIGNATED STATE INTERNET WEB
4 SITE OR BY CALLING A DESIGNATED STATEWIDE, TOLL-FREE TELEPHONE
5 NUMBER MAINTAINED BY THE DESIGNATED AGENT AS A PART OF THE
6 COLORADO JUNK MAIL OPT-OUT LIST;

7 (IV) SPECIFY THAT THE DATE OF EVERY NOTICE RECEIVED IN
8 ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH (b) BE
9 RECORDED AND INCLUDED AS PART OF THE INFORMATION IN THE JUNK
10 MAIL OPT-OUT LIST;

11 (V) REQUIRE THE DESIGNATED AGENT TO PROVIDE UPDATED
12 INFORMATION ABOUT THE COLORADO JUNK MAIL OPT-OUT LIST PROGRAM
13 ON THE DESIGNATED STATE WEB SITE, SUBJECT TO SUPERVISION BY THE
14 PUBLIC UTILITIES COMMISSION;

15 (VI) PROHIBIT THE DESIGNATED AGENT OR ANY PERSON
16 COLLECTING INFORMATION TO BE TRANSMITTED TO THE DESIGNATED
17 AGENT FROM MAKING ANY USE OR DISTRIBUTION OF NAMES OR ADDRESSES
18 CONTAINED IN THE JUNK MAIL OPT-OUT LIST EXCEPT AS EXPRESSLY
19 AUTHORIZED UNDER THIS PART 12;

20 (VII) SPECIFY THE METHODS BY WHICH ADDITIONS, DELETIONS,
21 CHANGES, AND MODIFICATIONS SHALL BE MADE TO THE COLORADO JUNK
22 MAIL OPT-OUT LIST DATABASE AND HOW UPDATES OF THE DATABASE
23 SHALL BE MADE AVAILABLE TO PERSONS DESIRING SUCH UPDATES. SUCH
24 METHODS SHALL INCLUDE PROVISIONS TO REMOVE FROM THE COLORADO
25 JUNK MAIL OPT-OUT LIST, ON AT LEAST AN ANNUAL BASIS, EVERY ADDRESS
26 AWAY FROM WHICH THE ORIGINAL POSTAL PATRON HAS MOVED.

27 (VIII) REQUIRE THE DESIGNATED AGENT TO MAINTAIN AN

1 AUTOMATED, ON-LINE COMPLAINT SYSTEM FOR POSTAL PATRONS TO
2 REPORT SUSPECTED VIOLATIONS OVER THE INTERNET WEB SITE. THE
3 AUTOMATED, ON-LINE COMPLAINT SYSTEM SHALL HAVE THE CAPABILITY
4 TO COLLECT, SORT, AND REPORT SUSPECTED VIOLATIONS TO THE
5 APPROPRIATE STATE ENFORCEMENT AGENCY ELECTRONICALLY FOR
6 ENFORCEMENT PURPOSES.

7 (IX) SPECIFY THAT THE JUNK MAIL OPT-OUT LIST SHALL BE
8 AVAILABLE ON LINE AT THE COLORADO JUNK MAIL OPT-OUT LIST WEB SITE
9 TO A PERSON DESIRING TO SEND JUNK MAIL IF THE PERSON HAS
10 REGISTERED IN ACCORDANCE WITH SUBPARAGRAPH (II) OF THIS
11 PARAGRAPH (b). THE LIST SHALL BE AVAILABLE IN A TEXT OR OTHER
12 COMPATIBLE FORMAT, AT THE DISCRETION OF THE PUBLIC UTILITIES
13 COMMISSION, BUT SHALL ALLOW BULK MAILERS TO SELECT AND SORT BY
14 SPECIFIC ZIP CODES.

15 (X) SPECIFY SUCH OTHER MATTERS RELATING TO THE DATABASE
16 AS THE PUBLIC UTILITIES COMMISSION DEEMS NECESSARY OR DESIRABLE.

17 (c) IF THE FEDERAL GOVERNMENT ESTABLISHES ONE OR MORE
18 OFFICIAL DATABASES OF POSTAL PATRONS WHO OBJECT TO RECEIVING
19 JUNK MAIL, THE DESIGNATED AGENT IS AUTHORIZED TO PROVIDE
20 APPROPRIATE DATA FROM THE OFFICIAL COLORADO JUNK MAIL OPT-OUT
21 LIST EXCLUSIVELY FOR INCLUSION IN AN OFFICIAL, NATIONAL
22 DO-NOT-MAIL DATABASE. TO THE EXTENT ALLOWED BY FEDERAL LAW,
23 THE DESIGNATED AGENT SHALL ENSURE THAT THE COLORADO JUNK MAIL
24 OPT-OUT LIST INCLUDES THAT PORTION OF AN OFFICIAL NATIONAL
25 DO-NOT-MAIL DATABASE THAT RELATES TO COLORADO.

26 (4) THE STATE SHALL NOT BE LIABLE TO ANY PERSON FOR
27 GATHERING, MANAGING, OR USING INFORMATION IN THE COLORADO JUNK

1 MAIL OPT-OUT LIST DATABASE PURSUANT TO THIS PART 12 AND FOR
2 ENFORCING THE PROVISIONS OF THIS PART 12.

3 (5) THE DESIGNATED AGENT SHALL NOT BE LIABLE TO ANY PERSON
4 FOR PERFORMING ITS DUTIES UNDER THIS PART 12 UNLESS, AND ONLY TO
5 THE EXTENT THAT, THE DESIGNATED AGENT COMMITS A WILLFUL AND
6 WANTON ACT OR OMISSION.

7 (6) AS SOON AS PRACTICABLE, THE DESIGNATED AGENT SHALL
8 UPDATE THE DATABASE, ON AN ONGOING BASIS, WITH INFORMATION
9 PROVIDED BY POSTAL PATRONS AND THE UNITED STATES POSTAL SERVICE.

10 (7) NO PERSON SHALL PLACE THE ADDRESS OF ANOTHER PERSON
11 ON THE COLORADO JUNK MAIL OPT-OUT LIST WITHOUT THE OTHER
12 PERSON'S PERMISSION.

13 **6-1-1206. Enforcement - penalties - defenses.** (1) ON AND
14 AFTER JANUARY 1, 2008, VIOLATION OF ANY PROVISION OF THIS PART 12
15 CONSTITUTES A DECEPTIVE TRADE PRACTICE UNDER SECTION 6-1-105 (1)
16 AND MAY BE ENFORCED UNDER SECTIONS 6-1-110, 6-1-112, AND 6-1-113.
17 NO STATE ENFORCEMENT ACTION UNDER THIS PART 12 MAY BE BROUGHT
18 AGAINST A PERSON FOR FEWER THAN THREE VIOLATIONS PER MONTH.

19 (2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, IT SHALL
20 NOT BE A VIOLATION OF THIS PART 12 IF:

21 (a) THE PERSON HAS OTHERWISE FULLY COMPLIED WITH THIS PART
22 12 AND HAS ESTABLISHED AND IMPLEMENTED, PRIOR TO THE VIOLATION,
23 WRITTEN PRACTICES AND PROCEDURES TO EFFECTIVELY PREVENT THE
24 SENDING OF JUNK MAIL IN VIOLATION OF THIS PART 12; OR

25 (b) THE VIOLATION RESULTED FROM AN ERROR IN TRANSCRIPTION
26 OR OTHER TECHNICAL DEFECT, NOT THE FAULT OF THE PERSON OR
27 EQUIPMENT OR SOFTWARE WITHIN ITS CONTROL, THAT CAUSED THE

1 INFORMATION IN THE JUNK MAIL OPT-OUT LIST AS RECEIVED BY THE
2 PERSON TO DIFFER FROM THE INFORMATION THAT WAS OR SHOULD HAVE
3 BEEN INCLUDED IN THE JUNK MAIL OPT-OUT LIST AS TRANSMITTED BY THE
4 DESIGNATED AGENT.

5 (3) THE REMEDIES, DUTIES, PROHIBITIONS, AND PENALTIES OF THIS
6 SECTION ARE NOT EXCLUSIVE AND ARE IN ADDITION TO ALL OTHER CAUSES
7 OF ACTION, REMEDIES, AND PENALTIES PROVIDED BY LAW.

8 (4) NO PROVIDER OF ADDRESS INFORMATION OR ADDRESS LISTS
9 SHALL BE HELD LIABLE FOR VIOLATIONS OF THIS PART 12 COMMITTED BY
10 OTHER PERSONS.

11 **SECTION 2.** 6-1-105 (1), Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW PARAGRAPH to read:

13 **6-1-105. Deceptive trade practices.** (1) A person engages in a
14 deceptive trade practice when, in the course of such person's business,
15 vocation, or occupation, such person:

16 (yy) VIOLATES ANY PROVISION OF PART 12 OF THIS ARTICLE.

17 **SECTION 3. Effective date.** This act shall take effect at 12:01
18 a.m. on the day following the expiration of the ninety-day period after
19 final adjournment of the general assembly that is allowed for submitting
20 a referendum petition pursuant to article V, section 1 (3) of the state
21 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);
22 except that, if a referendum petition is filed against this act or an item,
23 section, or part of this act within such period, then the act, item, section,
24 or part, if approved by the people, shall take effect on the date of the
25 official declaration of the vote thereon by proclamation of the governor.