716A.6 Civil relief — damages.

1.   A person who is injured by a violation of this chapter may bring a civil action seeking relief from a person whose conduct violated this chapter and recover any damages incurred including loss of profits, attorney fees, and court costs.

2.   A person who is injured by the transmission of unsolicited bulk electronic mail in violation of this chapter may elect, in lieu of actual damages, to recover either of the following:

a.   The lesser of ten dollars for each unsolicited bulk electronic mail message transmitted in violation of this chapter, or twenty-five thousand dollars per day the messages are transmitted by the violator.

b.   One dollar for each intended recipient of an unsolicited bulk electronic mail message where the intended recipient is an end user of the electronic mail service provider, or twenty-five thousand dollars for each day an attempt is made to transmit an unsolicited bulk electronic mail message to an end user of the electronic mail service provider.

3. *a.*   A violation of this chapter is a violation of section 714.16, subsection 2, paragraph *"a"*. All the powers conferred upon the attorney general to accomplish the objectives and carry out the duties prescribed pursuant to section 714.16 are also conferred upon the attorney general to enforce this chapter, including, but not limited to, the power to issue subpoenas, adopt rules which shall have the force of law, and seek injunctive relief and civil penalties.

b.   In seeking reimbursement pursuant to section 714.16, subsection 7, from a person who has committed a violation of this chapter, the attorney general may seek an order from the court that the person pay to the attorney general on behalf of consumers the amounts for which the person would be liable under subsection 1 or 2, for each consumer who has a cause of action pursuant to this section. Section 714.16, as it relates to consumer reimbursement, shall apply to consumer reimbursement pursuant to this section.

4.   At the request of any party to an action brought pursuant to this section, the court may, in its discretion, conduct all legal proceedings in such a way as to protect the secrecy and security of the computer, computer network, computer data, computer program, and computer software involved in order to prevent possible recurrence of the same or a similar act by another person, and to protect any trade secrets of any party and in such a way as to protect the privacy of nonparties who complain about violations pursuant to this section.

5.   This section shall not be construed to limit a person's right to pursue any additional civil remedy otherwise allowed by law.

6.   An action brought pursuant to this section shall be commenced before the earlier of five years after the last act in the course of conduct constituting a violation of this chapter or two years after the injured person discovers or reasonably should have discovered the last act in the course of conduct constituting a violation of this chapter.

7.   Personal jurisdiction may be exercised over any person who engages in any conduct in this state governed by this chapter.

8.   The injured person shall not have a cause of action against the electronic mail service provider that merely transmits the unsolicited bulk electronic mail over its computer network.

2005 Acts, ch 123, §6