



NY STATE LAWS: INTERNET FRAUD, CRIMES & PREVENTION

THE ANTI-PHISHING ACT OF 2006

NY General Business Law § 390-B

This law makes it illegal for anyone to solicit, request or collect personal information (like your social security number, date of birth, bank account numbers, address, phone number, etc.) over the Internet by misrepresentation (by pretending to be writing from a bank, government agency, etc.) if done so without the authority or approval of the business or government entity.

ANTITRUST LAW - THE DONNELLY ACT

NY General Business Law § 340-347

The Donnelly Act, New York's Antitrust Act, was enacted in 1893. The Act prohibits price fixing, bid rigging, monopolization, boycotts, tying arrangements, and territorial and customer allocations, among other practices.

- Corporate violators are subject to fines of up to \$1,000,000 and individual violators are subject to fines of up to \$100,000. Private parties can bring lawsuits to stop these practices and obtain damages.
- Violation of the Donnelly Act is also a felony, punishable by a fine of up to \$1,000,000 for corporations and up to \$100,000 and 4 years imprisonment for individuals.
- The bans on bid rigging and price fixing also apply to online auctions (such as those which take place on eBay).
- For some examples of violations of the Donnelly Act, see <http://www.oag.state.ny.us/business/antitrust.html>

COMPUTER TAMPERING LAW

NY Penal Law §§ 156.20 through 156.27

A person is guilty of computer tampering when he or she uses, causes to be used, or accesses a computer, computer service, or computer network without authorization and he or she intentionally alters in any manner or destroys computer data or a computer program of another person. Depending on the intent behind the computer tampering, violation of the statute is a class A misdemeanor, class E felony, class D felony, or class C felony.

COMPUTER TRESPASS LAW

NY Penal Law §§ 156.05 and 156.10

A person is guilty of unauthorized use of a computer when he or she knowingly uses, causes to be used, or accesses a computer service, or computer network without authorization. Violation of this section is a class A misdemeanor. If a person accesses a computer without authorization with the intent to commit a felony or to knowingly gain access to computer material, it is class E felony.

CYBERSTALKING LAW

NY Penal Law §120.19

This law makes cyberstalking on a computer network a criminal offense. **Note:** This law will be in effect November 2007.

- A person is guilty of cyberstalking if they repeatedly communicate with another person (even if that person is anonymous) via a computer or other method of electronic communication over a period of time, and if they harass, annoy, threaten, or intentionally cause alarm to that person.
- Cyberstalking is a Class E Felony.

DECEPTIVE PRACTICES LAWS

NY General Business Laws § 349 § 350

These laws define practices, including advertising, that businesses may not engage in because they are deceptive and/or fraudulent. The laws also describe what the Attorney General can do to stop businesses from using these methods.

- Outlaws "deceptive acts or practices" occurring during the conduct of any business, or in the furnishing of any service and allows the attorney general to enjoin (stop) such practices and to obtain restitution (money) for consumers, any funds or other property obtained directly or indirectly by these deceptive acts or practices (disgorgement), and up to \$500 per violation in penalties. Private citizens may also sue for restitution damages. Also, anyone who purposely defrauds seniors (65+) is liable for additional penalties of up to \$10,000 per violation.
- Outlaws "deceptive advertising," meaning any advertising or labeling of a commodity or service that is "misleading in a material respect."

DOMAIN NAMES CYBER PRIVACY PROTECTIONS ACT

NY General Business Law § 146

This law prohibits the registration of domain names that include an individual's name without that individual's consent.

NEW YORK FAIR CREDIT REPORTING ACT

NY General Business Law § 380

This Act governs which individuals or organizations can access your credit report and under what circumstances they can obtain a copy of your credit report.

- The Act stipulates that consumer credit reports can only be disclosed under the following circumstances:
 - ✓ In response to a court order
 - ✓ In accordance with the written instructions of the consumer to whom the report relates (you can ALWAYS access your own credit report!
 - ✓ To companies who are going to use the report.
 1. in connection with a consumer's credit transaction
 2. for employment purposes
 3. in connection with the underwriting of insurance involving the consumer
 4. in connection with the rental or lease of a residence
 5. in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status
 6. in connection with a business transaction involving the consumer where the person or business making the request has a legitimate business need for such information.
- **TIP:** No one can request a consumer report for purposes of credit, employment, insurance, or rental or lease of residences (1, 3, 4 and 5), unless the applicant is first informed in writing!

IDENTITY THEFT LAW

NY Penal Law §§ 190.78 through 190.80

A person is guilty of identity theft when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or commits a class A misdemeanor or higher level crime. Depending on the effect and/or intent behind the identity theft, violation of the statute is a class A misdemeanor, a class E felony or a class D felony.

INFORMATION SECURITY BREACH AND NOTIFICATION ACT

NY General Business Law § 899-aa

This law requires businesses to alert customers if their personal information has been or may have been accessed illegally. This means that if a hacker steals your personal information from a company's records, or if the company believes that its information collection system has been breached to any extent, the company must notify you right away.

NY ATTORNEY GENERAL POWER TO STOP FRAUDULENT BUSINESS PRACTICES

Executive Law § 63(12)

This law gives the Attorney General power to "enjoin," or stop, businesses from engaging in fraudulent or illegal behavior. It also lists the methods the Attorney General is permitted to use to halt and correct such business practices.

- When a person engages in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting or transacting of business, the Attorney General may apply for an order enjoining these business practices, ordering restitution damages, and/or suspending any certificate or license held by the business owner.

NY PUBLIC LIBRARIES' INTERNET POLICIES LAW

NY Education Law § 260.12

This law requires libraries to have policies regarding public use of the Internet. The law does not specify a particular policy, but rather allows each library to establish its own rules regarding public Internet access.

- Any public, school, or Indian library receiving state funds which provides public access to the Internet must establish a policy governing patron use of computer terminals which access the Internet, and this policy must be reported to the state as part of the library's annual report.

SECURITY FREEZE LAW

NY General Business Law § 380-t

This law requires credit agencies to put a "security freeze" on a consumer's credit file at the consumer's request. The security freeze works by preventing most lenders and others from gaining access to your credit report for review prior to granting a new line of credit. If there is a security freeze on your credit file, the lender won't be able to get a copy of your credit history and, as a result, will likely refuse to open a new credit account. The security freeze will, in most cases, block someone from opening a new account or borrowing money with your name or personal and financial information.

- That's bad news for the bad guys! A security freeze will prevent them, in most cases, from opening a new credit card or borrowing money because your credit file is now off limits until you lift the security freeze.
- There is no charge for a New York resident to place a security freeze if they are a victim of identity theft or making a first request. Otherwise, the freeze costs up to \$5.

See http://www.consumer.state.ny.us/security_freeze.htm for more information.

SHIPPING & ADVERTISING RULES FOR BUSINESSES

NY General Business Law § 396-m

This law provides special advertising and shipping rules that telephone or mail order businesses must follow. These regulations also apply to business transactions made over the Internet (online shopping, etc.). The law requires that telephone or mail order businesses not:

- Advertise for or accept orders for merchandise which will not be available for shipment for more than 30 days (unless a longer period of time is clearly stated in the advertisement).
- Fail to ship ordered merchandise within 30 days or issue a refund for merchandise which is not available within 30 days.
- Fail to prominently feature in all advertising or other promotional materials the legal name of the company soliciting the order, the complete street address of such company and under what conditions a refund will be issued.

ELECTRONIC SECURITY AND TARGETING OF ONLINE PREDATORS ACT

Correction Law §§ 168a, 168-b(1)(a), 168-b(10), 168-f(4); Penal Law §§ 65.10(4-a), 65.10(5-a); Executive Law § 259-c(15)

This Act requires convicted sex offenders to register their Internet accounts and userIDs, along with other identifying information, with law enforcement every year (or more frequently for particularly dangerous and/or repeat offenders).

- Internet service/access providers [eg: Facebook, AOL, etc.] are then authorized to access this information in order to:
 - ✓ remove the offenders from their service,
 - ✓ block the offenders from interacting with minors through their network, AND OR
 - ✓ report offenders' activities to law enforcement that may prove dangerous to the public
- Courts shall impose restrictions on the Internet use of certain registered sex offenders. The restrictions can include prohibitions on:
 - ✓ accessing pornography,
 - ✓ accessing social networking sites,
 - ✓ communicating with people for the purpose of promoting sexual relations with minors, AND
 - ✓ communicating with minors (when the offender is over 18 years of age)
- Depending on the activity, a violation of this Act can be a Class E felony, Class D felony, or Class A misdemeanor. Additionally, a violation of this Act can result in revocation of parole or probation.

Content developed by LawHelp/NY. This is not legal advice. For legal advice, consult an attorney.

To develop the Internet Fraud: Crimes & Prevention topic area, LawHelp/NY received a Consumer Cyber-Awareness Grant of funds from a court-approved settlement of antitrust claims brought by the Office of the New York State Attorney General and the Federal Trade Commission. The views and statements expressed herein do not necessarily reflect the views and opinions of the Attorney General or the Federal Trade Commission.