

BUSINESS & COMMERCE CODE  
CHAPTER 48. UNAUTHORIZED USE OF IDENTIFYING INFORMATION  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 48.001. SHORT TITLE. This chapter may be cited as the Identity Theft Enforcement and Protection Act.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

Sec. 48.002. DEFINITIONS. In this chapter:

(1) "Personal identifying information" means information that alone or in conjunction with other information identifies an individual, including an individual's:

- (A) name, social security number, date of birth, or government-issued identification number;
- (B) mother's maiden name;
- (C) unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;
- (D) unique electronic identification number, address, or routing code; and
- (E) telecommunication access device.

(2) "Sensitive personal information":

(A) means an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:

- (i) social security number;
- (ii) driver's license number or government-issued identification number; or
- (iii) account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; and

(B) does not include publicly available information that is lawfully made available to the general public from the federal government or a state or local government.

(3) "Telecommunication access device" has the meaning assigned by Section 32.51, Penal Code.

(4) "Victim" means a person whose identifying information is used by an unauthorized person.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

SUBCHAPTER B. IDENTITY THEFT

Sec. 48.101. UNAUTHORIZED USE OR POSSESSION OF PERSONAL IDENTIFYING INFORMATION. (a) A person may not obtain, possess, transfer, or use personal identifying information of another person without the other person's consent and with intent to obtain a good, a service, insurance, an extension of credit, or any other thing of value in the other person's name.

(b) It is a defense to an action brought under this section that an act by a person:

(1) is covered by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.); and

(2) is in compliance with that Act and regulations adopted under that Act.

(c) This section does not apply to:

(1) a financial institution as defined by 15 U.S.C. Section 6809; or

(2) a covered entity as defined by Section 601.001 or 602.001, Insurance Code.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

Sec. 48.102. BUSINESS DUTY TO PROTECT AND SAFEGUARD SENSITIVE PERSONAL INFORMATION. (a) A business shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard from unlawful use or disclosure any sensitive personal information collected or maintained by the business in the regular course of business.

(b) A business shall destroy or arrange for the destruction of customer records containing sensitive personal information within the business's custody or control that are not to be retained by the business by:

- (1) shredding;
- (2) erasing; or
- (3) otherwise modifying the sensitive personal information in the records to make the information unreadable or undecipherable through any means.

(c) This section does not apply to a financial institution as defined by 15 U.S.C. Section 6809.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

Sec. 48.103. NOTIFICATION REQUIRED FOLLOWING BREACH OF SECURITY OF COMPUTERIZED DATA. (a) In this section, "breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person. Good faith acquisition of sensitive personal information by an employee or agent of the person or business for the purposes of the person is not a breach of system security unless the sensitive personal information is used or disclosed by the person in an unauthorized manner.

(b) A person that conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any resident of this state whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(c) Any person that maintains computerized data that includes sensitive personal information that the person does not own shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(d) A person may delay providing notice as required by Subsections (b) and (c) at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that it will not compromise the investigation.

(e) A person may give notice as required by Subsections (b) and (c) by providing:

- (1) written notice;
- (2) electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001; or
- (3) notice as provided by Subsection (f).

(f) If the person or business demonstrates that the cost of providing notice would exceed \$250,000, the number of affected persons exceeds 500,000, or the person does not have sufficient contact information, the notice may be given by:

- (1) electronic mail, if the person has an electronic mail address for the affected persons;
- (2) conspicuous posting of the notice on the person's website; or
- (3) notice published in or broadcast on major statewide media.

(g) Notwithstanding Subsection (e), a person that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice under this section complies with this section if the person notifies affected persons in accordance with that policy.

(h) If a person is required by this section to notify at one time more than 10,000 persons of a breach of system security, the person shall also notify, without unreasonable delay, all consumer reporting agencies, as defined by 15 U.S.C. Section 1681a, that maintain files on consumers on a nationwide basis, of the timing, distribution, and content of the notices.  
Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

#### SUBCHAPTER C. REMEDIES AND OFFENSES

Sec. 48.201. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter is liable to the state for a civil penalty of at least \$2,000 but not more than \$50,000 for each violation. The attorney general may bring suit to recover the civil penalty imposed by this subsection.

(b) If it appears to the attorney general that a person is engaging in, has engaged in, or is about to engage in conduct that violates this chapter, the attorney general may bring an action in the name of this state against the person to restrain the violation by a temporary restraining order or a permanent or temporary injunction.

(c) An action brought under Subsection (b) shall be filed in a district court in Travis County or:

(1) in any county in which the violation occurred; or  
(2) in the county in which the victim resides, regardless of whether the alleged violator has resided, worked, or done business in the county in which the victim resides.

(d) The plaintiff in an action under this section is not required to give a bond. The court may also grant any other equitable relief that the court considers appropriate to prevent any additional harm to a victim of identity theft or a further violation of this chapter or to satisfy any judgment entered against the defendant, including the issuance of an order to appoint a receiver, sequester assets, correct a public or private record, or prevent the dissipation of a victim's assets.

(e) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs. Amounts collected by the attorney general under this section shall be deposited in the general revenue fund and may be appropriated only for the investigation and prosecution of other cases under this chapter.

(f) The fees associated with an action under this section are the same as in a civil case, but the fees may be assessed only against the defendant.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

Sec. 48.202. COURT ORDER TO DECLARE INDIVIDUAL A VICTIM OF IDENTITY THEFT. (a) A person who is injured by a violation of Section 48.101 or who has filed a criminal complaint alleging commission of an offense under Section 32.51, Penal Code, may file an application with a district court for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly transferred or used the person's identifying information in an unlawful manner.

(b) A person is presumed to be a victim of identity theft under this section if the person charged with an offense under Section 32.51, Penal Code, is convicted of the offense.

(c) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a violation of Section 48.101 or is the victim of an offense under Section 32.51, Penal Code, the court shall enter an order containing:

(1) a declaration that the person filing the application is a victim of identity theft resulting from a violation of Section 48.101 or an offense under Section 32.51, Penal Code, as appropriate;

(2) any known information identifying the violator or person charged with the offense;

(3) the specific personal identifying information and any related document used to commit the alleged violation or offense; and

(4) information identifying any financial account or transaction affected by the alleged violation or offense, including:

(A) the name of the financial institution in which the account is established or of the merchant involved in the transaction, as appropriate;

(B) any relevant account numbers;

(C) the dollar amount of the account or transaction affected by the alleged violation or offense; and

(D) the date of the alleged violation or offense.

(d) An order rendered under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from a violation of this chapter, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by a violation of this chapter or the commission of an offense under Section 32.51, Penal Code; or

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the

violation or offense;

(3) on order of the judge; or

(4) as otherwise required or provided by law.

(e) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(f) A copy of an order provided to a person under Subsection (d)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under Subsection (d)(2) is confidential and may not be released to another person except as otherwise required or provided by law.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

Sec. 48.203. DECEPTIVE TRADE PRACTICE. A violation of Section 48.101 is a deceptive trade practice actionable under Subchapter E, Chapter 17.

Added by Acts 2005, 79th Leg., ch. 294, Sec. 2, eff. Sept. 1, 2005.

Sec. 48.001. SHORT TITLE. This chapter may be cited as the Anti-Phishing Act.

Added by Acts 2005, 79th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.002. DEFINITIONS. In this chapter:

(1) "Electronic mail" means a message, file, or other information that is transmitted through a local, regional, or global computer network, regardless of whether the message, file, or other information is viewed, stored for retrieval at a later time, printed, or filtered by a computer program that is designed or intended to filter or screen those items.

(2) "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

(3) "Identifying information" has the meaning assigned by Section 32.51, Penal Code.

(4) "Internet domain name" refers to a globally unique, hierarchical reference to an Internet host or service, assigned through a centralized Internet naming authority and composed of a series of character strings separated by periods with the right-most string specifying the top of the hierarchy.

(5) "Web page" means a location that has a single uniform resource locator (URL) with respect to the world wide web or another location that can be accessed on the Internet.

Added by Acts 2005, 79th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.003. CREATION OF WEB PAGE OR DOMAIN NAME FOR FRAUDULENT PURPOSES. A person may not, with the intent to engage in conduct involving the fraudulent use or possession of another person's identifying information:

(1) create a web page or Internet domain name that is represented as a legitimate online business without the authorization of the registered owner of the business; and

(2) use that web page or a link to the web page, that domain name, or another site on the Internet to induce, request, or solicit another person to provide identifying information for a purpose that the other person believes is legitimate.

Added by Acts 2005, 79th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.004. ELECTRONIC MAIL FRAUD. A person may not, with the intent to engage in conduct involving the fraudulent use or possession of identifying information, send or cause to be sent to an electronic mail address held by a resident of this state an electronic mail message that:

(1) is falsely represented as being sent by a legitimate online business;

(2) refers or links the recipient of the message to a web page that is represented as being associated with the legitimate online business; and

(3) directly or indirectly induces, requests, or solicits the recipient of the electronic mail message to provide identifying information for a purpose that the recipient believes is legitimate.

Added by Acts 2005, 79th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.005. CIVIL RELIEF. (a) The following persons may bring a civil action against a person who violates this chapter:

(1) a person engaged in the business of providing Internet access service to the public who is adversely affected by the violation;

(2) an owner of a web page or trademark who is

adversely affected by the violation; or

(3) the attorney general.

(b) A person bringing an action under this section may:

(1) seek injunctive relief to restrain the violator from continuing the violation;

(2) recover damages in an amount equal to the greater of:

(A) actual damages arising from the violation;

or

(B) \$100,000 for each violation of the same nature; or

(3) both seek injunctive relief and recover damages as provided by this subsection.

(c) The court may increase an award of actual damages in an action brought under this section to an amount not to exceed three times the actual damages sustained if the court finds that the violations have occurred with a frequency as to constitute a pattern or practice.

(d) A plaintiff who prevails in an action filed under this section is entitled to recover reasonable attorney's fees and court costs.

(e) For purposes of this section, violations are of the same nature if the violations consist of the same course of conduct or action, regardless of the number of times the conduct or act occurred.

Added by Acts 2005, 79th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.006. APPLICABILITY OF CHAPTER. This chapter does not apply to a telecommunications provider's or Internet service provider's good faith transmission or routing of, or intermediate temporary storing or caching of, identifying information.

Added by Acts 2005, 79th Leg., ch. 544, Sec. 1, eff. Sept. 1, 2005.

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 48.001. SHORT TITLE. This chapter may be cited as the Consumer Protection Against Computer Spyware Act.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.002. DEFINITIONS. In this chapter:

(1) "Advertisement" means a communication that includes the promotion of a commercial product or service, including communication on an Internet website operated for a commercial purpose.

(2) "Cause computer software to be copied" means to distribute or transfer computer software or a component of computer software. The term does not include:

(A) the transmission or routing of computer software or a component of the software;

(B) the provision of intermediate temporary storage or caching of software;

(C) the provision of a storage medium such as a compact disk;

(D) a website;

(E) the distribution of computer software by a third party through a computer server; or

(F) the provision of an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of a computer is able to locate computer software.

(3) "Computer software" means a sequence of instructions written in a programming language that is executed on a computer. The term does not include:

(A) a web page; or

(B) a data component of a web page that cannot be executed independently of that page.

(4) "Damage," with respect to a computer, means significant impairment to the integrity or availability of data, computer software, a system, or information.

(5) "Execute," with respect to computer software, means to perform a function or carry out instructions.

(6) "Keystroke-logging function" means a function of a computer software program that records all keystrokes made by a person using a computer and transfers that information from the computer to another person.

(7) "Owner or operator of a computer" means the owner or lessee of a computer or an individual using a computer with the authorization of the owner or lessee of the computer. If a computer was sold at retail, the phrase "owner of a computer" does not

include the person who owned the computer before the date on which the computer was sold.

(8) "Person" means any individual, partnership, corporation, limited liability company, or other organization, or a combination of those organizations.

(9) "Personally identifiable information," with respect to an individual who is the owner or operator of a computer, means:

(A) first name or first initial in combination with last name;

(B) a home or other physical address, including street name;

(C) an electronic mail address;

(D) a credit or debit card number;

(E) a bank account number;

(F) a password or access code associated with a credit or debit card or bank account;

(G) a social security number, tax identification number, driver's license number, passport number, or other government-issued identification number; or

(H) any of the following information if the information alone or in combination with other information personally identifies the individual:

(i) account balances;

(ii) overdraft history; or

(iii) payment history.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.003. APPLICABILITY OF CHAPTER. (a) Section 48.052, other than Subdivision (1) of that section, and Sections 48.053(4) and 48.055 do not apply to a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service that monitors or has interaction with a subscriber's Internet or other network connection or service or a protected computer for:

(1) network or computer security purposes;

(2) diagnostics, technical support, or repair purposes;

(3) authorized updates of computer software or system firmware;

(4) authorized remote system management; or

(5) detection or prevention of unauthorized use of or fraudulent or other illegal activities in connection with a network, service, or computer software, including scanning for and removing software proscribed under this chapter.

(b) This chapter does not apply to:

(1) the use of a navigation device, any interaction with a navigation device, or the installation or use of computer software on a navigation device by a multichannel video programming distributor or video programmer in connection with the provision of multichannel video programming or other services offered over a multichannel video programming system if the provision of the programming or other service is subject to 47 U.S.C. Section 338(i) or 551; or

(2) the collection or disclosure of subscriber information by a multichannel video programming distributor or video programmer in connection with the provision of multichannel video programming or other services offered over a multichannel video programming system if the collection or disclosure of the information is subject to 47 U.S.C. Section 338(i) or 551.

(c) In this section, "multichannel video programming distributor" has the meaning assigned by 47 U.S.C. Section 522(13). Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

#### SUBCHAPTER B. PROHIBITED CONDUCT OR ACTIVITIES

Sec. 48.051. UNAUTHORIZED COLLECTION OR CULLING OF PERSONALLY IDENTIFIABLE INFORMATION. If a person is not the owner or operator of the computer, the person may not knowingly cause computer software to be copied to a computer in this state and use the software to:

(1) collect, through intentionally deceptive means:

(A) personally identifiable information by using a keystroke-logging function; or

(B) personally identifiable information in a manner that correlates that information with information regarding all or substantially all of the websites visited by the owner or operator of the computer, other than websites operated by the

person collecting the information; or

(2) cull, through intentionally deceptive means, the following kinds of personally identifiable information from the consumer's computer hard drive for a purpose wholly unrelated to any of the purposes of the software or service described to an owner or operator of the computer:

- (A) a credit or debit card number;
- (B) a bank account number;
- (C) a password or access code associated with a credit or debit card number or a bank account;
- (D) a social security number;
- (E) account balances; or
- (F) overdraft history.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.052. UNAUTHORIZED ACCESS TO OR MODIFICATIONS OF COMPUTER SETTINGS; COMPUTER DAMAGE. If a person is not the owner or operator of the computer, the person may not knowingly cause computer software to be copied to a computer in this state and use the software to:

(1) modify, through intentionally deceptive means, a setting that controls:

(A) the page that appears when an Internet browser or a similar software program is launched to access and navigate the Internet;

(B) the default provider or web proxy used to access or search the Internet; or

(C) a list of bookmarks used to access web pages;

(2) take control of the computer by:

(A) accessing or using the computer's modem or Internet service to:

(i) cause damage to the computer;

(ii) cause the owner or operator of the computer to incur financial charges for a service not previously authorized by the owner or operator; or

(iii) cause a third party affected by the conduct to incur financial charges for a service not previously authorized by the third party; or

(B) opening, without the consent of the owner or operator of the computer, an advertisement that:

(i) is in the owner's or operator's Internet browser in a multiple, sequential, or stand-alone form; and

(ii) cannot be closed by an ordinarily reasonable person using the computer without closing the browser or shutting down the computer;

(3) modify settings on the computer that relate to access to or use of the Internet and protection of information for purposes of stealing personally identifiable information of the owner or operator of the computer; or

(4) modify security settings on the computer relating to access to or use of the Internet for purposes of causing damage to one or more computers.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.053. UNAUTHORIZED INTERFERENCE WITH INSTALLATION OR DISABLING OF COMPUTER SOFTWARE. If a person is not the owner or operator of the computer, the person may not knowingly cause computer software to be copied to a computer in this state and use the software to:

(1) prevent, through intentionally deceptive means, reasonable efforts of the owner or operator of the computer to block the installation or execution of or to disable computer software by causing computer software that the owner or operator has properly removed or disabled to automatically reinstall or reactivate on the computer;

(2) intentionally misrepresent to another that computer software will be uninstalled or disabled by the actions of the owner or operator of the computer;

(3) remove, disable, or render inoperative, through intentionally deceptive means, security, antispyware, or antivirus computer software installed on the computer;

(4) prevent the owner's or operator's reasonable efforts to block the installation of or to disable computer software by:

(A) presenting the owner or operator with an option to decline the installation of software knowing that, when the option is selected, the installation process will continue to

proceed; or

(B) misrepresenting that software has been disabled;

(5) change the name, location, or other designation of computer software to prevent the owner from locating and removing the software; or

(6) create randomized or intentionally deceptive file names or random or intentionally deceptive directory folders, formats, or registry entries to avoid detection and prevent the owner from removing computer software.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.054. KNOWING VIOLATION. A person knowingly violates Section 48.051, 48.052, or 48.053 if the person:

(1) acts with actual knowledge of the facts that constitute the violation; or

(2) consciously avoids information that would establish actual knowledge of those facts.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.055. OTHER PROHIBITED CONDUCT. If a person is not the owner or operator of the computer, the person may not:

(1) induce the owner or operator of a computer in this state to install a computer software component to the computer by intentionally misrepresenting the extent to which the installation is necessary for security or privacy reasons, to open or view text, or to play a particular type of musical or other content; or

(2) copy and execute or cause the copying and execution of a computer software component to a computer in this state in a deceptive manner with the intent of causing the owner or operator of the computer to use the component in a manner that violates this chapter.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.056. DECEPTIVE ACT OR OMISSION. For purposes of this chapter, a person is considered to have acted through intentionally deceptive means if the person, with the intent to deceive an owner or operator of a computer:

(1) intentionally makes a materially false or fraudulent statement;

(2) intentionally makes a statement or uses a description that omits or misrepresents material information; or

(3) intentionally and materially fails to provide to the owner or operator any notice regarding the installation or execution of computer software.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

#### SUBCHAPTER C. CIVIL REMEDIES

Sec. 48.101. CIVIL RELIEF. (a) The following persons, if adversely affected by the violation, may bring a civil action against a person who violates this chapter:

(1) a provider of computer software;

(2) an owner of a web page or trademark;

(3) a telecommunications carrier;

(4) a cable operator; or

(5) an Internet service provider.

(b) In addition to any other remedy provided by law and except as provided by Subsection (g), a person bringing an action under this section may:

(1) seek injunctive relief to restrain the violator from continuing the violation;

(2) recover damages in an amount equal to the greater of:

(A) actual damages arising from the violation;

or  
(B) \$100,000 for each violation of the same nature; or

(3) both seek injunctive relief and recover damages as provided by this subsection.

(c) The court may increase an award of actual damages in an action brought under Subsection (b) to an amount not to exceed three times the actual damages sustained if the court finds that the violations have occurred with a frequency as to constitute a pattern or practice.

(d) A plaintiff who prevails in an action filed under Subsection (b) is entitled to recover reasonable attorney's fees and court costs.

(e) Each separate violation of this chapter is an actionable violation.

(f) For purposes of Subsection (b), violations are of the same nature if the violations consist of the same course of conduct or action, regardless of the number of times the conduct or act occurred.

(g) In the case of a violation of Section 48.052 that causes a telecommunications carrier or cable operator to incur costs for the origination, transport, or termination of a call triggered using the modem of a customer of the telecommunications carrier or cable operator as a result of the violation and in addition to any other remedy provided by law, a telecommunications carrier or cable operator bringing an action under this section may:

(1) apply to a court for an order to enjoin the violation;

(2) recover the charges the telecommunications carrier or cable operator is obligated to pay to a telecommunications carrier, cable operator, other provider of transmission capability, or an information service provider as a result of the violation, including charges for the origination, transport, or termination of the call;

(3) recover the costs of handling customer inquiries or complaints with respect to amounts billed for calls as a result of the violation;

(4) recover other costs, including court costs, and reasonable attorney's fees; or

(5) both apply for injunctive relief and recover charges and other costs as provided by this subsection.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.

Sec. 48.102. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter is liable to the state for a civil penalty in an amount not to exceed \$100,000 for each violation. The attorney general may bring suit to recover the civil penalty imposed by this subsection.

(b) If it appears to the attorney general that a person is engaging in, has engaged in, or is about to engage in conduct that violates this chapter, the attorney general may bring an action in the name of this state against the person to restrain the violation by a temporary restraining order or a permanent or temporary injunction.

(c) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees and court costs.

Added by Acts 2005, 79th Leg., ch. 298, Sec. 1, eff. Sept. 1, 2005.