

SENATE BILL REPORT

SB 6434

As of January 29, 1998

Title: An act relating to electronic mail.

Brief Description: Prohibiting unsolicited electronic mail.

Sponsors: Senators Finkbeiner, Brown, Winsley, Jacobsen, Haugen, Rasmussen and Kohl; by request of Attorney General.

Brief History:

Committee Activity: Energy & Utilities: 1/29/98.

SENATE COMMITTEE ON ENERGY & UTILITIES

Staff: Karen Kirkpatrick (786-7403)

Background: Unsolicited commercial electronic mail (e-mail), often referred to as "spam," is an emerging issue on the internet. Advertisers can reach thousands or even millions of consumers at little or no cost to themselves through spamming. As a result, some internet users regularly receive substantial amounts of unsolicited commercial e-mail while others receive little or none.

The Attorney General's Office is requesting this legislation to prohibit the sending of unsolicited commercial e-mail, authorize internet service providers (ISPs) to block transmission under specified circumstances, make spamming a violation of the Consumer Protection Act, and create minimum damages for violations.

Summary of Bill: Transmissions of unsolicited electronic mail (e-mail) messages from a computer located in Washington or to a computer located in Washington that promote goods or services for purchase or lease are prohibited under specified circumstances. E-mail messages directed to existing customers, to collect existing obligations, or sent with the consent of the recipient are exempt from the prohibition.

Requirements that commercial e-mail messages must contain the term "advertisement" as the first word on the subject line, and that the name, addresses, and telephone number of the entity initiating the message must appear prominently in the body of the message are created.

A violation of these requirements is deemed a violation of the Consumer Protection Act.

Minimum damages of \$500 for individuals and \$1,000 for ISPs or actual damages, whichever are greater, are created for each message sent in violation of the section.

An ISP is given the authority to block the receipt or transmission of e-mail which it reasonably believes is or will be sent in violation of this chapter and is exempt from liability for blocking such e-mail.

Findings are made that (a) the volume of unsolicited electronic mail has grown exponentially as individuals and organizations have discovered they can reach hundreds of internet users at virtually no cost, (b) unsolicited commercial e-mail messages constitute the majority of unsolicited e-mail, (c) these unsolicited commercial e-mail messages often impose an out-of-pocket monetary cost, (d) they are often indistinguishable from other messages, and (e) they cannot be effectively blocked, as well as findings that (f) advertisers may reach electronic mail users by less intrusive means, (g) advertisers may also continue to use e-mail as a low-cost method of reaching a wide audience, if solicited, and (h) unsolicited e-mail sent in bulk imposes significant monetary costs to interactive computer services, businesses, or other organizations because they divert significant portions of their resources to processing and storing messages and responding to complaints by recipients.

Definitions are added and other technical and clarifying changes are made.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.