
SUBSTITUTE HOUSE BILL 2752

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives Bush, Crouse, Gardner, Cairnes, Dyer, Mulliken, Morris, Linville, Reams, Romero, Smith, McDonald, Ogden, Dickerson, Butler, O'Brien, Ballasiotes, Talcott and Appelwick; by request of Attorney General)

Read first time 02/03/98. Referred to Committee on .

1 AN ACT Relating to electronic mail; adding a new chapter to Title
2 19 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that the volume of
5 unsolicited commercial electronic mail has grown exponentially in the
6 past year as individuals and organizations have discovered that they
7 are able to send electronic advertisements to hundreds of thousands or
8 millions of internet users at virtually no cost.

9 Unsolicited commercial electronic mail messages constitute the
10 majority of unsolicited electronic mail. Unsolicited commercial
11 electronic mail messages often impose an out-of-pocket monetary cost on
12 recipients who cannot refuse such messages and incur incremental fees
13 for time spent accessing and reviewing each message.

14 To the recipient, unsolicited commercial electronic mail messages
15 are often indistinguishable from other electronic mail messages. The
16 unsolicited commercial messages thus diminish the utility of electronic
17 mail service because users must wade through unwanted advertisements to
18 obtain those messages they wish to receive.

1 Advertisers may reach electronic mail users by less intrusive
2 means, means which do not impose the cost of unwanted advertisements on
3 recipients and do not interfere with recipients' ability to use
4 electronic mail service. Advertisers may also continue to use
5 electronic mail as a low-cost method of reaching a wide audience, if
6 their mailings are solicited.

7 Unsolicited commercial electronic mail sent in bulk often imposes
8 significant monetary costs on interactive computer services,
9 businesses, and educational and nonprofit institutes because they must
10 divert a significant portion of their limited computing resources to
11 processing and storing those messages and to responding to ensuing
12 complaints by recipients. Unsolicited commercial electronic mail is
13 increasingly diminishing the quality of service provided to customers
14 of interactive computer services and is harming the interactive
15 computer services themselves.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply
17 throughout this chapter unless the context clearly requires otherwise.

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

21 (2) "Initiate the transmission" refers to the action by the
22 original sender of an electronic mail message, not to the action by any
23 intervening interactive computer service that may handle or retransmit
24 the message.

25 (3) "Interactive computer service" means any information service,
26 system, or access software provider that provides or enables computer
27 access by multiple users to a computer server, including specifically
28 a service or system that provides access to the internet and such
29 systems operated or services offered by libraries or educational
30 institutions.

31 NEW SECTION. **Sec. 3.** (1) No person, corporation, partnership, or
32 association may initiate the transmission of an unsolicited commercial
33 electronic mail message from a computer located in Washington or to an
34 electronic mail address that the sender knows, or has reason to know,
35 is held by a Washington resident, to promote real property, goods, or
36 services for purchase or lease by the recipient.

1 (2) For purposes of this section, a person, corporation,
2 partnership, or association knows that the intended recipient of an
3 unsolicited commercial electronic mail message is a Washington resident
4 if that information is available, upon request, from the registrant of
5 the internet domain name contained in the recipient's electronic mail
6 address.

7 (3) This section does not apply to:

8 (a) A commercial electronic mail message intended to be delivered
9 exclusively to a person who has an existing business or personal
10 relationship with the sender;

11 (b) A commercial electronic mail message sent for the purpose of
12 collecting an existing obligation; or

13 (c) A commercial electronic mail message sent with the consent of
14 all intended recipients. It is presumed that a person who either
15 requests information or contacts a sender to inquire about real
16 property, goods, or services has consented to the receipt of commercial
17 electronic mail messages from that sender for a twelve-month period.
18 However, if a person with whom the sender has an existing business or
19 personal relationship or a person who has consented to the receipt of
20 commercial electronic mail messages provides to the sender written or
21 electronic notice at any time that the person does not wish to receive
22 further electronic mail messages from that sender, the sender shall not
23 send the person any further commercial electronic mail messages.

24 (4) A person may not initiate a commercial electronic mail message
25 under the provisions of subsection (3) of this section if the person
26 knows or reasonably should know that any of the recipients is a
27 governmental entity, unless that entity has consented to the receipt of
28 the electronic mail message.

29 NEW SECTION. **Sec. 4.** (1) If a person, corporation, partnership,
30 or association initiates the transmission of a commercial electronic
31 mail message from a computer located in Washington or to a Washington
32 resident's electronic mail address to promote real property, goods, or
33 services for purchase or lease by the recipient, under section 3(3) of
34 this act, that person or entity shall cause the following information
35 to appear in each commercial electronic mail message transmitted:

36 (a) The term "advertisement"; and

37 (b) The legal name, mailing address, true electronic mail address,
38 physical address, and telephone number, including area code, of the

1 person, corporation, partnership, or association initiating
2 transmission of the message and the date and time the message was sent.

3 (2) The information specified in subsection (1)(a) of this section
4 must appear as the first word on the subject line of the commercial
5 electronic mail message, without any prior text or symbol.

6 (3) The information specified in subsection (1)(b) of this section
7 must appear prominently in the body of the message.

8 NEW SECTION. **Sec. 5.** The unsolicited transmission of commercial
9 electronic mail messages promoting real property, goods, or services
10 for purchase or lease by the recipient in violation of this chapter is
11 a matter affecting the public interest for the purpose of applying the
12 consumer protection act, chapter 19.86 RCW. The transmission of
13 unsolicited commercial electronic mail messages in violation of this
14 chapter is not reasonable in relation to the development and
15 preservation of business. A violation of this chapter is an unfair or
16 deceptive act in trade or commerce for the purpose of applying the
17 consumer protection act, chapter 19.86 RCW.

18 NEW SECTION. **Sec. 6.** (1) Damages to the recipient of an
19 unsolicited commercial electronic mail message sent in violation of
20 this chapter are five hundred dollars, or actual damages, whichever is
21 greater.

22 (2) Damages to an interactive computer service resulting from a
23 violation of this chapter are one thousand dollars, or actual damages,
24 whichever is greater.

25 NEW SECTION. **Sec. 7.** (1) An interactive computer service may,
26 upon its own initiative, block the receipt or transmission through its
27 service of any electronic mail which it reasonably believes is, or will
28 be, sent in violation of this chapter.

29 (2) No interactive computer service may be held liable for any
30 action voluntarily taken in good faith to block the receipt or
31 transmission through its service of any electronic mail which it
32 reasonably believes is, or will be, sent in violation of this chapter.

1 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
2 a new chapter in Title 19 RCW.

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