

CERTIFICATION OF ENROLLMENT  
ENGROSSED SUBSTITUTE HOUSE BILL 2752

55th Legislature  
1998 Regular Session

Passed by the House March 7, 1998  
Yeas 96 Nays 0

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Speaker of the  
House of Representatives

Passed by the Senate March 4, 1998  
Yeas 42 Nays 0

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President of the Senate

Approved

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Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2752** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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Chief Clerk

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Secretary of State  
State of Washington

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**ENGROSSED SUBSTITUTE HOUSE BILL 2752**

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Passed Legislature - 1998 Regular Session

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

**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; creating a new section; prescribing penalties; and providing an  
3 expiration date.

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

5            NEW SECTION.    **Sec. 1.** The legislature finds that the volume of  
6 commercial electronic mail is growing, and the consumer protection  
7 division of the attorney general's office reports an increasing number  
8 of consumer complaints about commercial electronic mail. Interactive  
9 computer service providers indicate that their systems sometimes cannot  
10 handle the volume of commercial electronic mail being sent and that  
11 filtering systems fail to screen out unsolicited commercial electronic  
12 mail messages when senders use a third party's internet domain name  
13 without the third party's permission, or otherwise misrepresent the  
14 message's point of origin. The legislature seeks to provide some  
15 immediate relief to interactive computer service providers by  
16 prohibiting the sending of commercial electronic mail messages that use  
17 a third party's internet domain name without the third party's  
18 permission, misrepresent the message's point of origin, or contain  
19 untrue or misleading information in the subject line.

1 The legislature also finds that the utilization of electronic mail  
2 messages for commercial purposes merits further study. A select task  
3 force should be created to explore technical, legal, and cost issues  
4 surrounding the usage of electronic mail messages for commercial  
5 purposes and to recommend to the legislature any potential legislation  
6 needed for regulating commercial electronic mail messages.

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

9 (1) "Commercial electronic mail message" means an electronic mail  
10 message sent for the purpose of promoting real property, goods, or  
11 services for sale or lease.

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

15 (3) "Initiate the transmission" refers to the action by the  
16 original sender of an electronic mail message, not to the action by any  
17 intervening interactive computer service that may handle or retransmit  
18 the message.

19 (4) "Interactive computer service" means any information service,  
20 system, or access software provider that provides or enables computer  
21 access by multiple users to a computer server, including specifically  
22 a service or system that provides access to the internet and such  
23 systems operated or services offered by libraries or educational  
24 institutions.

25 (5) "Internet domain name" refers to a globally unique,  
26 hierarchical reference to an internet host or service, assigned through  
27 centralized internet naming authorities, comprising a series of  
28 character strings separated by periods, with the right-most string  
29 specifying the top of the hierarchy.

30 NEW SECTION. **Sec. 3.** (1) No person, corporation, partnership, or  
31 association may initiate the transmission of a commercial electronic  
32 mail message from a computer located in Washington or to an electronic  
33 mail address that the sender knows, or has reason to know, is held by  
34 a Washington resident that:

35 (a) Uses a third party's internet domain name without permission of  
36 the third party, or otherwise misrepresents any information in

1 identifying the point of origin or the transmission path of a  
2 commercial electronic mail message; or

3 (b) Contains false or misleading information in the subject line.

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

10 NEW SECTION. **Sec. 4.** (1) It is a violation of the consumer  
11 protection act, chapter 19.86 RCW, to initiate the transmission of a  
12 commercial electronic mail message that:

13 (a) Uses a third party's internet domain name without permission of  
14 the third party, or otherwise misrepresents any information in  
15 identifying the point of origin or the transmission path of a  
16 commercial electronic mail message; or

17 (b) Contains false or misleading information in the subject line.

18 (2) The legislature finds that the practices covered by this  
19 chapter are matters vitally affecting the public interest for the  
20 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
21 violation of this chapter is not reasonable in relation to the  
22 development and preservation of business and is an unfair or deceptive  
23 act in trade or commerce and an unfair method of competition for the  
24 purpose of applying the consumer protection act, chapter 19.86 RCW.

25 NEW SECTION. **Sec. 5.** (1) Damages to the recipient of a commercial  
26 electronic mail message sent in violation of this chapter are five  
27 hundred dollars, or actual damages, whichever is greater.

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

31 NEW SECTION. **Sec. 6.** (1) An interactive computer service may,  
32 upon its own initiative, block the receipt or transmission through its  
33 service of any commercial electronic mail that it reasonably believes  
34 is, or will be, sent in violation of this chapter.

35 (2) No interactive computer service may be held liable for any  
36 action voluntarily taken in good faith to block the receipt or

1 transmission through its service of any commercial electronic mail  
2 which it reasonably believes is, or will be, sent in violation of this  
3 chapter.

4 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute  
5 a new chapter in Title 19 RCW.

6 NEW SECTION. **Sec. 8.** (1) The select task force on commercial  
7 electronic mail messages is hereby created. The select task force  
8 shall:

9 (a) Identify technical, legal, and cost issues in relation to the  
10 transmission and receipt of commercial electronic mail messages over  
11 the internet;

12 (b) Evaluate whether existing laws are sufficient to resolve any  
13 technical, legal, or financial problems created by the increasing  
14 volume of commercial electronic mail messages;

15 (c) Review efforts being made by the federal government and other  
16 states to regulate the transmission of commercial electronic mail  
17 messages; and

18 (d) Prepare a report identifying policy options and recommendations  
19 for any potential legislation needed to regulate commercial electronic  
20 mail messages. The report shall be delivered to the house of  
21 representatives energy and utilities committee by November 15, 1998.

22 (2) The select task force shall be composed of five members,  
23 consisting of:

24 (a) Two members of the house of representatives, one from each of  
25 the two largest caucuses, each member being a member of the house of  
26 representatives energy and utilities committee, appointed by the  
27 speaker of the house of representatives;

28 (b) Two members of the senate, one from each of the two largest  
29 caucuses, each member being a member of the senate energy and utilities  
30 committee, appointed by the president; and

31 (c) One person appointed by the governor.

32 (3) The select task force shall solicit input from interested  
33 parties, including but not limited to, persons representing:

34 (a) Attorney general's consumer protection division;

35 (b) Internet service providers;

36 (c) Direct marketers;

37 (d) Manufacturers of electronic mail messaging software;

1 (e) Nonprofit organizations interested in free speech and other  
2 civil liberty matters; and

3 (f) Internet users.

4 (4) Staff support for the select task force shall be provided by  
5 the house of representatives office of program research and senate  
6 committee services.

7 (5) This section expires December 31, 1998.

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