

FINAL BILL REPORT

2SHB 1037

C 289 L 99

Synopsis as Enacted

Brief Description: Creating a registry of Washington resident's electronic mail addresses to facilitate a program that allows private interactive computer service providers to limit unsolicited commercial electronic mail messages.

Sponsors: By House Committee on Technology, Telecommunications & Energy
(Originally sponsored by Representatives Bush, Morris and Ruderman).

House Committee on Technology, Telecommunications & Energy
House Committee on Appropriations
Senate Committee on Energy, Technology & Telecommunications
Senate Committee on Ways & Means

Background:

The Internet is an international network of computer networks, interconnecting computers ranging from simple personal computers to sophisticated mainframes. It is a dynamic, open-ended aggregation of computer networks, rather than a physical entity. Internet users can access or provide a wide variety of information, purchase goods and services, and communicate with other users electronically.

In 1998, the Legislature passed a law regulating commercial electronic mail messages. The law defines a commercial electronic mail message as one sent for the purpose of promoting real property, goods, or services for sale or lease. It is a violation of the Consumer Protection Act to initiate a commercial electronic mail message from a computer located in Washington or to a Washington resident that:

- uses a third party's Internet domain name without permission of the third party, or otherwise misrepresents any information in identifying the point of origin or transmission path of the message; or
- puts false or misleading information in the subject line of the message.

Only the person who originally sends a message by clicking or pushing a button on a computer screen or keyboard to transmit a message is liable under the Consumer Protection Act. An interactive computer service provider that routes or re-transmits the message is not liable.

When a sender violates the Consumer Protection Act, the recipient of the commercial electronic mail message may bring a civil action against the sender for the greater of \$500 or actual damages. An interactive computer service provider may also bring an action against the sender for the greater of \$1,000 or actual damages.

Summary:

It is a violation of the Consumer Protection Act to send a commercial electronic mail message that obscures any information about the message's transmission path or point-of-origin.

Persons who originally click or push buttons to send messages are no longer the only persons liable for violating the Consumer Protection Act. Persons who assist or conspire with others to initiate commercial electronic messages containing certain types of misleading or obscuring information are also liable for violating the Consumer Protection Act. A person who assists is only liable, however, if he or she provides substantial assistance and knows, or consciously avoids knowing, that the actual initiator of the message is violating or intends to violate the Consumer Protection Act.

Interactive computer service providers continue to be exempt from liability for unknowingly handling or re-transmitting a message sent in violation of the Consumer Protection Act. However, an interactive computer service provider may be liable for violating or conspiring to violate the Consumer Protection Act if the interactive computer service provider knows, or consciously avoids knowing, that it is assisting a person who is sending messages in violation of the Consumer Protection Act.

The definition of a commercial electronic mail message is clarified to exclude advertisements that are attached to messages sent through a free electronic mail account, when the sender has consented to the advertising as a condition for free use of the account.

Notes on Final Passage:

House 95 1
Senate 47 0 (Senate amended)
House (House refused to concur)
Senate (Senate receded)
Senate 44 2 (Senate amended)
House 95 1 (House concurred)

Effective: July 25, 1999