
Technology, Telecommunications & Energy Committee

ESSB 6568

Brief Description: Requiring the sender of commercial electronic mail to identify itself as a commercial message.

Sponsors: Senate Committee on Economic Development & Telecommunications (originally sponsored by Senators Finkbeiner, Benton, Gardner, Poulsen, T. Sheldon, Winsley, Oke, Hale and Rasmussen).

Brief Summary of Engrossed Substitute Bill

- Requires the sender of a commercial electronic mail message to include "ADV:" in the first four characters of the subject line and makes a violation of this provision a violation of the Consumer Protection Act.

Hearing Date: 2/28/02

Staff: Pam Madson (786-7166).

Background:

In 1998 legislation was enacted regulating commercial electronic mail messages. A commercial electronic mail message is 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 or assist in initiating a commercial electronic mail message that is deceptive or misleading from a computer located in Washington or to an electronic mail address that the sender knows is held by a Washington resident. A deceptive or misleading message is one that (1) uses a third party's Internet domain name without permission of the third party, (2) misrepresents any information in identifying the point of origin or transmission path of the message; or (3) puts false or misleading information in the subject line of the message.

A sender is responsible for knowing that a recipient is a Washington resident, if that information is available, upon request, from the registrant of the Internet domain name contained in the recipient's electronic mail address.

A recipient may bring a civil action against a sender who violates the laws relating to commercial electronic mail messages. The penalty is the greater of \$500 or actual damages incurred. A violation of laws relating to commercial electronic mail messages is also a violation of the Consumer Protection Act and may be enforced by the Attorney General. A violation of the Consumer Protection Act may result in a civil fine, treble damages, court costs and attorneys' fees.

Summary of Bill:

A person sending or assisting in sending a commercial electronic mail message from a computer in Washington or to a recipient who is a Washington resident must include "ADV:" in the first four characters of the subject line.

An exemption to this requirement is a message sent to a person with whom the sender has a current or prior business relationship. A current or prior business relationship is evidenced by a clear indication that the recipient is willing to receive electronic mail messages from the sender. A business relationship is also evidenced if the message concerns a recent purchase by the recipient from the sender or the recipient has an on-going contract with the sender and the message relates to the contract.

A violation of this provision is a violation of the Consumer Protection Act and subjects the sender to penalties under the Consumer Protection Act and to damages for violation of laws governing commercial electronic mail messages.

On-line directories are included as sources that may be used to determine whether a recipient is a resident of Washington.

Appropriation: None.

Fiscal Note: Available.

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