

HOUSE BILL REPORT

HB 1287

As Reported by House Committee On:
Judiciary

Title: An act relating to district court jurisdiction over actions involving commercial electronic mail.

Brief Description: Clarifying district court jurisdiction over actions involving commercial electronic mail.

Sponsors: Representatives Lovick, Bush, Moeller, Campbell, McDonald and Cox; by request of Attorney General.

Brief History:

Committee Activity:

Judiciary: 2/6/03, 2/11/03 [DP].

Brief Summary of Bill

- Explicitly provides that district courts have jurisdiction over civil actions for violations of the commercial e-mail laws.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

In 1998 the Legislature passed laws prohibiting certain types of unsolicited commercial e-mail. In particular, the laws prohibit the sending of commercial e-mail from a computer located in Washington or to an e-mail address of a Washington resident if the commercial e-mail uses:

- a false or misleading return address;
- a false or misleading subject line; or

- a third party's e-mail address (domain name) without permission.

A recipient of unlawful commercial e-mail may bring a lawsuit to recover actual damages or \$500, whichever is greater. In addition, a violation of the commercial e-mail law constitutes a violation of the Consumer Protection Act (CPA), and a person may bring a lawsuit under the CPA. Generally, the superior courts have jurisdiction over CPA cases and can award damages, reasonable attorney fees, and an injunction prohibiting further violations. District courts also have jurisdiction over CPA actions, but are limited in what they can award.

Jurisdiction of a court refers to the power of the particular court to hear the lawsuit. Venue, on the other hand, refers to the place where the plaintiff may bring the action within the state. The district courts are courts of limited jurisdiction, and share concurrent jurisdiction with superior courts over civil cases where the amount at issue is below \$50,000. Regarding venue, a person may bring a lawsuit in district court against a nonresident of the state in any district where service of process may be had, in any district where the cause of action arose, or in any district in which the plaintiff resides.

Summary of Bill:

It is explicitly stated that district courts have jurisdiction over actions arising from violations of the unlawful commercial e-mail laws. In cases of a nonresident defendant, the action may be brought in a district where service of process may be had, where the cause of action arose, or where one of the plaintiffs resides.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: This is a straightforward bill. It clarifies that district courts have jurisdiction over "spam" cases. Washington's "spam" laws have been found to be constitutional, so more and more people will be using this law. Internet users can take action against a nonresident under the "spam" laws. This bill will give consumers a better chance at enforcing the laws. It will take the guesswork out of where to bring a lawsuit. At least one district court said it did not have jurisdiction over these cases. This bill will clarify that district courts do have jurisdiction.

Testimony Against: None.

Testified: Christine Gregoire, Attorney General; and Gary Gardner, Washington Association of Internet Service Providers.