

SENATE BILL REPORT

SHB 2007

As Reported By Senate Committee On:
Technology & Communications, April 3, 2003

Title: An act relating to commercial text messages.

Brief Description: Prohibiting unsolicited commercial text messages.

Sponsors: House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Nixon, Ruderman, Bush, Dickerson and Hudgins).

Brief History:

Committee Activity: Technology & Communications: 3/24/03, 4/3/03 [DPA].

SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

Majority Report: Do pass as amended.

Signed by Senators Esser, Chair; Finkbeiner, Vice Chair; Eide, Poulsen, Reardon, Schmidt and Stevens.

Staff: Dario de la Rosa (786-7484)

Background: Electronic text messages are messages sent to pagers and cellular telephones equipped with a short message service. Electronic text messages function much like electronic mail messages. Some wireless service plans require the subscriber to pay fixed rates for sending and receiving text messages.

In 1991, the U.S. Congress enacted the Telephone Consumer Protection Act (TCPA). TCPA mandated that the Federal Communications Commission (FCC) implement regulations to protect citizens' privacy rights by restricting unsolicited advertising on telephone networks. FCC rules prohibit the transmission of unsolicited advertisements to telephone facsimile machines. TCPA does not address unsolicited text messages sent to pagers and cellular phones.

Summary of Amended Bill: Subject to certain exceptions, sending unsolicited commercial text messages to pagers and cellular phones is prohibited. Cellular or pager service providers may send commercial text messages to existing subscribers at no cost to the subscriber unless the subscriber has indicated he or she is unwilling to receive these text messages. Senders of an unsolicited commercial text message may send to a subscriber only if the subscriber has consented in advance to receive these messages.

In the case of a lawsuit by a recipient of a commercial electronic text message, damages are the greater of \$500 or actual damages. Cellular and pager service providers may not be held liable for serving merely as an intermediary between the sender and recipient of commercial text messages, but may be liable if they knowingly assist in transmitting messages in violation of the law.

Amended Bill Compared to Substitute Bill: Wireless networks are not liable for damages when acting merely as an intermediary for an unsolicited commercial text message, unless that wireless network provider assists in the transmission of a text message when it knows that the person initiating the transmission is engaged in any practice that would violate the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Unsolicited commercial text messages hurt the consumers because in many cases the consumer has to pay for the message. Additionally, unsolicited text messages also cost in terms of missed messages because the memory of these devices is not large enough to handle a flood of unwanted text messages. This bill works because it allows the wireless companies to communicate with their subscribers but still protects the consumer.

Testimony Against: None.

Testified: Representative Toby Nixon, prime sponsor; Dan Youmans, AT&T Wireless (pro); Steve Gano, Cingular Wireless (pro); Jean Leonard, T-Mobile Wireless (pro); Dave Horn, Office of the Attorney General (pro).