

# HOUSE BILL REPORT

## HB 3172

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**As Reported by House Committee On:**  
Technology, Energy & Communications

**Title:** An act relating to unsolicited facsimiles.

**Brief Description:** Penalizing persons who transmit unsolicited facsimiles.

**Sponsors:** Representatives Anderson, Rodne and Morrell.

**Brief History:**

**Committee Activity:**

Technology, Energy & Communications: 1/31/06, 2/2/06 [DP].

**Brief Summary of Bill**

- Authorizes the Washington Utilities and Transportation Commission to initiate administrative proceedings involving unsolicited faxes.

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### HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

**Majority Report:** Do pass. Signed by 12 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump, Takko and Wallace.

**Staff:** Kara Durbin (786-7133).

**Background:**

State Law

In 1990, the Legislature passed a law regulating unsolicited telefacsimile messages. The law defines "telefacsimile message" as the transmittal of electronic signals over telephone lines for conversion into written text. It is a violation of the Consumer Protection Act to initiate the unsolicited transmission of a telefacsimile message promoting goods or services for purchase by the recipient. This prohibition does not apply to messages sent to a recipient with whom the sender has had a prior contractual or business relationship.

When a sender violates the Consumer Protection Act, the recipient may bring a civil action against the sender for the greater of \$500 or actual damages, whichever is greater.

Federal Law

The Telephone Consumer Protection Act of 1991 (TCPA) and the Federal Communications Commission's (FCC) rules prohibit sending unsolicited advertisements to a fax machine

without the recipient's prior express permission or unless the sender has an established business relationship with the recipient. This prohibition applies to fax machines at both businesses and residences.

In July of 2005, Congress enacted the Junk Fax Prevention Act (Act). The Act amends the TCPA by permitting businesses or entities to send unsolicited advertisements to consumers and businesses with whom the sender has an established business relationship. It also requires senders of fax advertisements to include a notice and contact information on the first page of the fax informing the recipient how to "opt-out" of any future fax advertisements from the sender. The Act directs the FCC to issue regulations to implement these amendments no later than April 5, 2006.

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**Summary of Bill:**

The Washington Utilities and Transportation Commission (WUTC) is authorized to initiate proceedings involving unsolicited faxes. It may issue investigative demands or subpoenas, administer oaths, and conduct hearings. Any hearings conducted must be in accordance with the Administrative Procedures Act.

Any person who sends an unsolicited fax may be subject to (a) a cease and desist order; and (b) an administrative fine between \$500 and \$1,000. Each page of an unsolicited fax may constitute a separate violation.

Any person who intentionally sends an unsolicited fax is guilty of a misdemeanor punishable by a mandatory fine of up to \$1,000 per violation. A person has intentionally sent an unsolicited fax if the Attorney General has previously notified the person by certified mail that he or she is in violation of this Act.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** The problem of unsolicited faxes is akin to spam email. The problem is that the "opt-out" option usually doesn't work; you get a busy signal or no one answers. The faxes keep coming. If you can't contact the sender, the remedies are moot. This bill will help the sender figure out who the faxes are coming from. This sends a message to companies who send faxes that they are going to be held accountable.

**Testimony Against:** None.

**Persons Testifying:** Representative Anderson, prime sponsor.

**Persons Signed In To Testify But Not Testifying: None.**