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**Technology, Energy &  
Communications Committee**

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**HB 3172**

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

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

**Brief Summary of Bill**

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

**Hearing Date:** 1/31/06

**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. 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.

**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.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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