
HOUSE BILL 3172

State of Washington

59th Legislature

2006 Regular Session

By Representatives Anderson, Rodne and Morrell

Read first time 01/24/2006. Referred to Committee on Technology,
Energy & Communications.

1 AN ACT Relating to unsolicited facsimiles; amending RCW 80.36.540;
2 and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 80.36.540 and 1990 c 221 s 1 are each amended to read
5 as follows:

6 (1) As used in this section, "telefacsimile message" means the
7 transmittal of electronic signals over telephone lines for conversion
8 into written text.

9 (2) No person, corporation, partnership, or association shall
10 initiate the unsolicited transmission of telefacsimile messages
11 promoting goods or services for purchase by the recipient.

12 (3)(a) Except as provided in (b) of this subsection, this section
13 shall not apply to telefacsimile messages sent to a recipient with whom
14 the initiator has had a prior contractual or business relationship.

15 (b) A person shall not initiate an unsolicited telefacsimile
16 message under the provisions of (a) of this subsection if the person
17 knew or reasonably should have known that the recipient is a
18 governmental entity.

1 (4) Notwithstanding subsection (3) of this section, it is unlawful
2 to initiate any telefacsimile message to a recipient who has previously
3 sent a written or telefacsimile message to the initiator clearly
4 indicating that the recipient does not want to receive telefacsimile
5 messages from the initiator.

6 (5) The unsolicited transmission of telefacsimile messages
7 promoting goods or services for purchase by the recipient is a matter
8 affecting the public interest for the purpose of applying the consumer
9 protection act, chapter 19.86 RCW. The transmission of unsolicited
10 telefacsimile messages is not reasonable in relation to the development
11 and preservation of business. A violation of this section is an unfair
12 or deceptive act in trade or commerce for the purpose of applying the
13 consumer protection act, chapter 19.86 RCW. (~~Damages to the recipient~~
14 ~~of telefacsimile messages in violation of this section are five hundred~~
15 ~~dollars or actual damages, whichever is greater.))~~

16 (6) A person who violates this section is subject to: (a) A cease
17 and desist order; and (b) an administrative fine of not less than five
18 hundred dollars or more than one thousand dollars for each separate
19 violation. For purposes of this section, each page of an unsolicited
20 facsimile message may constitute a separate violation.

21 (7) A person who intentionally violates this section is guilty of
22 a misdemeanor punishable according to chapter 9A.20 RCW and by a
23 mandatory fine of up to one thousand dollars per violation. For
24 purposes of this section, a person has intentionally violated this
25 section if the attorney general has previously notified the person by
26 certified mail that he or she is in violation of this section.

27 (8) The commission may initiate proceedings relative to a violation
28 of this section, including issuing investigative demands, issuing
29 subpoenas, administering oaths, and conducting hearings. Hearings must
30 be conducted in accordance with the administrative procedure act.

31 (9) Nothing in this section shall be construed to prevent the
32 Washington utilities and transportation commission from adopting
33 additional rules regulating transmissions of telefacsimile messages.

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