
HOUSE BILL 2475

State of Washington

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By Representatives Lias, Reykdal, Ryu, Jinkins, Orwall, Cody, Billig, Fitzgibbon, Ladenburg, Darneille, Santos, Roberts, and Pollet

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1 AN ACT Relating to protecting consumers from deceptive billing
2 practices for electronic text messaging; amending RCW 19.190.010;
3 adding a new section to chapter 19.190 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that text messaging
6 services are a growing sector in the wireless industry. As data
7 networks continue to expand, more and more text messaging traffic is
8 being routed through a wireless provider's data network rather than its
9 cellular network. Charging a per message fee for a text message that
10 is sent over the internet or a wireless provider's data network, in
11 addition to charging the customer for a monthly data plan, is an unfair
12 billing practice. Because there is no effective federal regulation in
13 this area to protect consumers, it is the intent of the legislature to
14 regulate electronic text messaging for the limited purpose of
15 preventing unfair billing practices in the state.

16 **Sec. 2.** RCW 19.190.010 and 2005 c 378 s 1 are each amended to read
17 as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Assist the transmission" means actions taken by a person to
4 provide substantial assistance or support which enables any person to
5 formulate, compose, send, originate, initiate, or transmit a commercial
6 electronic mail message or a commercial electronic text message when
7 the person providing the assistance knows or consciously avoids knowing
8 that the initiator of the commercial electronic mail message or the
9 commercial electronic text message is engaged, or intends to engage, in
10 any practice that violates the consumer protection act. "Assist the
11 transmission" does not include any of the following: (a) Activities of
12 an electronic mail service provider or other entity who provides
13 intermediary transmission service in sending or receiving electronic
14 mail, or provides to users of electronic mail services the ability to
15 send, receive, or compose electronic mail; or (b) activities of any
16 entity related to the design, manufacture, or distribution of any
17 technology, product, or component that has a commercially significant
18 use other than to violate or circumvent this section.

19 (2) "Commercial electronic mail message" means an electronic mail
20 message sent for the purpose of promoting real property, goods, or
21 services for sale or lease. It does not mean an electronic mail
22 message to which an interactive computer service provider has attached
23 an advertisement in exchange for free use of an electronic mail
24 account, when the sender has agreed to such an arrangement.

25 (3) "Commercial electronic text message" means an electronic text
26 message sent to promote real property, goods, or services for sale or
27 lease.

28 (4) "Electronic mail address" means a destination, commonly
29 expressed as a string of characters, to which electronic mail may be
30 sent or delivered.

31 (5) "Electronic mail message" means an electronic message sent to
32 an electronic mail address and a reference to an internet domain,
33 whether or not displayed, to which an electronic mail message can be
34 sent or delivered.

35 (6) "Electronic text message" means a text message sent to a
36 cellular telephone or pager equipped with short message service or any
37 similar capability, whether the message is initiated as a short message
38 service message or as an electronic mail message.

1 (7) "Initiate the transmission" refers to the action by the
2 original sender of an electronic mail message or an electronic text
3 message, not to the action by any intervening interactive computer
4 service or wireless network that may handle or retransmit the message,
5 unless such intervening interactive computer service assists in the
6 transmission of an electronic mail message when it knows, or
7 consciously avoids knowing, that the person initiating the transmission
8 is engaged, or intends to engage, in any act or practice that violates
9 the consumer protection act.

10 (8) "Interactive computer service" means any information service,
11 system, or access software provider that provides or enables computer
12 access by multiple users to a computer server, including specifically
13 a service or system that provides access to the internet and such
14 systems operated or services offered by libraries or educational
15 institutions.

16 (9) "Internet" means collectively the myriad of computer and
17 telecommunications facilities, including equipment and operating
18 software, that comprise the interconnected world wide network of
19 networks that employ the transmission control protocol/internet
20 protocol, or any predecessor or successor protocols to such protocol,
21 to communicate information of all kinds by wire or radio.

22 (10) "Internet domain name" refers to a globally unique,
23 hierarchical reference to an internet host or service, assigned through
24 centralized internet naming authorities, comprising a series of
25 character strings separated by periods, with the right-most string
26 specifying the top of the hierarchy.

27 (11) "Person" means an individual, corporation, business trust,
28 estate, trust, partnership, limited liability company, association,
29 joint venture, government, governmental subdivision, agency or
30 instrumentality, public corporation, or any other legal or commercial
31 entity.

32 (12) "Personally identifying information" means an individual's:
33 (a) Social security number; (b) driver's license number; (c) bank
34 account number; (d) credit or debit card number; (e) personal
35 identification number; (f) automated or electronic signature; (g)
36 unique biometric data; (h) account passwords; or (i) any other piece of
37 information that can be used to access an individual's financial
38 accounts or to obtain goods or services.

1 (13) "Radio communications service company" has the same meaning as
2 defined in RCW 80.04.010.

3 (14) "Web page" means a location, with respect to the world wide
4 web, that has a single uniform resource locator or other single
5 location with respect to the internet.

6 NEW SECTION. Sec. 3. A new section is added to chapter 19.190 RCW
7 to read as follows:

8 (1) It is a violation of the consumer protection act, chapter 19.86
9 RCW, for a radio communications service company to charge a customer a
10 per message fee for any electronic text message sent or received by a
11 customer if:

12 (a) The electronic text message is transmitted over the radio
13 communications service company's data network or over the internet; and

14 (b) The customer already pays a monthly fee or usage fee for use of
15 the radio communications service company's data network.

16 (2) The legislature finds that the practices covered by this
17 section are matters vitally affecting the public interest for the
18 purpose of applying the consumer protection act, chapter 19.86 RCW. A
19 violation of this section is not reasonable in relation to the
20 development and preservation of business and is an unfair or deceptive
21 act in trade or commerce and an unfair method of competition for the
22 purpose of applying the consumer protection act, chapter 19.86 RCW.

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