

SENATE BILL REPORT

HB 2396

As of February 26, 2020

Title: An act relating to the regulation of bot communication on public-facing internet web sites.

Brief Description: Concerning the regulation of bot communication on public-facing internet web sites.

Sponsors: Representatives Hudgins, Tarleton and Wylie.

Brief History: Passed House: 2/17/20, 70-28.

Committee Activity: Environment, Energy & Technology: 2/25/20.

Brief Summary of Bill

- Prohibits the use of a bot to interact with a person in Washington online to incentivize a commercial transaction or to engage in political advertising without disclosure of the use.
- Requires online platforms to enable users to report suspected violations.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Angela Kleis (786-7469)

Background: Consumer Protection Act. The Consumer Protection Act (CPA) prohibits unfair methods of competition or unfair or deceptive practices in the conduct of any trade or commerce. A person injured by a violation of the CPA may bring a civil action for injunctive relief, recovery of actual damages, and reasonable attorneys' fees. The courts may increase awarded damages by up to three times the actual damages sustained. The attorney general (AG) is authorized to investigate and prosecute claims under the CPA on behalf of the state or individuals in the state.

Public Disclosure Commission. The Public Disclosure Commission (PDC) is empowered to provide public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates. It also ensures compliance with campaign finance and disclosure laws, including initiating an

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investigation to determine whether a violation has occurred. One of the five main elements of these laws is political advertising, which requires disclosure of the ad sponsor.

Summary of Bill: Prohibitions. It is unlawful for any person to use a bot to interact with another person in Washington online with the intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving the person about the content of the communication to:

- incentivize a commercial transaction; or
- engage in political advertising.

Disclosure must be clear, conspicuous, and reasonably designed to inform persons with whom the bot interacts that it is a bot.

Enforcement. A violation of the provisions related to a commercial bot communication is enforced by the AG under the CPA. A violation of the provisions related to a political advertising bot communication is enforced by the PDC under the campaign finance and disclosure laws.

Other Provisions Related to Commercial Bot Communications. An online platform shall enable users to identify and report bots that the user suspects of violating disclosure requirements. After receiving notice of a suspected violation, an online platform shall investigate and determine whether or not to disclose that the bot is not a natural person or remove the bot. Upon request from the AG, an online platform shall provide reports detailing notices received and actions taken in response.

There is a severability clause. Specified duties and obligations are cumulative with any other duties or obligations imposed by any other law.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on January 1, 2021.

Staff Summary of Public Testimony: PRO: With regards to the political ad bot communications, this bill fosters informed citizen engagement. Bots amplify the spread of misinformation and are an ongoing threat to the integrity of the political process.

CON: Consumers are already afforded the protections outlined in bill under current law. There are unclear requirements on responding to notices and providing a report on notices and actions taken to the AG.

OTHER: We have concerns related to Constitutional protections regarding free speech and are happy to work with the sponsor.

Persons Testifying: PRO: Phyllis Farrell, Washington League of Women.

CON: Samantha Kersul, TechNet, Executive Director Washington and the Northwest; Rose Feliciano, Internet Association, Director, Northwest Region; Anna Powell, CompTIA, Director, Western Region.

OTHER: Sean Flynn, PDC.

Persons Signed In To Testify But Not Testifying: No one.