

# FINAL BILL REPORT

## ESHB 2752

---

---

C 149 L 98

Synopsis as Enacted

**Brief Description:** Prohibiting unsolicited electronic mail.

**Sponsors:** By House Committee on Energy & Utilities (originally sponsored by Representatives Bush, Crouse, Gardner, Cairnes, Dyer, Mulliken, Morris, Linville, Reams, Romero, Smith, McDonald, Ogden, Dickerson, Butler, O'Brien, Ballasiotes, Talcott and Appelwick; by request of Attorney General).

**House Committee on Energy & Utilities**

**Senate Committee on Energy & Utilities**

**Background:** The Internet is an international network of computer networks, interconnecting computers ranging from simple personal computers to sophisticated mainframes. It is a dynamic, open-ended aggregation of computer networks, rather than a physical entity. Internet users can access or provide a wide variety of information, purchase goods and services, and communicate with other users electronically.

As a network of interconnected computers, the Internet also provides a new forum for advertising. Electronic mail messages sent over a computer network may advertise real property, goods, or services for sale or lease. In some cases, a computer user may request information about the property, goods, or services. In other cases, the computer user may receive the advertisements as unsolicited commercial electronic mail messages.

The Office of the Attorney General reports that it received 322 complaints over a five-month period in 1997 about unsolicited electronic messages. Although some of the unsolicited messages were non-commercial in nature, many of the messages were commercial advertisements.

Many consumers connect to the Internet through interactive computer services that charge fees for time spent utilizing a dial-up connection to their computer servers. Via an interactive computer service's server, individual consumers are able to reach the Internet.

**Summary:** A commercial electronic mail message means a message sent for the purpose of promoting real property, goods, or services for sale or lease. A person who initiates the transmission of a commercial electronic mail message from a computer located in Washington or to a Washington resident that contains untrue or

misleading information may violate the Consumer Protection Act. Specifically, a violation of the Consumer Protection Act occurs when a sender:

- uses a third party's Internet domain name without the permission of the third party, or otherwise misrepresents any information in identifying the point of origin or transmission path of the message; or
- puts false or misleading information in the subject line of the message.

A sender is responsible for knowing that a recipient is a Washington resident, if that information is available, upon request, from the registrant of the Internet domain name contained in the recipient's electronic mail address.

When a sender violates the Consumer Protection Act, the recipient of the commercial electronic mail message may bring a civil action against the sender for the greater of \$500 or actual damages. An interactive computer service provider may also bring an action against the sender for the greater of \$1,000 or actual damages. Additionally, a plaintiff who brings a civil suit against a sender may recover the costs of bringing the action, including attorney's fees. The court may also treble a plaintiff's damage award up to a maximum of \$10,000.

In addition to seeking civil remedies, an interactive computer service provider may block the receipt or transmission through its service of any electronic mail which it reasonably believes is, or will be, sent in violation of the Consumer Protection Act. An interactive computer service provider cannot be held liable for any action voluntarily taken in good faith to block the receipt of commercial electronic messages sent in violation of the Consumer Protection Act.

A select task force on commercial electronic messages is created. The select task force will consist of two Representatives, two Senators, and one person appointed by the Governor. The select task force will study technical, legal, and cost issues related to the transmission and receipt of commercial electronic messages over the Internet. The select task force will evaluate whether existing laws are sufficient to resolve technical, legal, or financial problems created by the increasing volume of commercial electronic mail messages. The select task force will also review efforts made by the federal government and other states to regulate the transmission of commercial electronic messages. The select task must prepare a report identifying policy options and recommendations for the House Energy and Utilities Committee by November 15, 1998.

**Votes on Final Passage:**

House 97 1  
Senate 42 0 (Senate amended)

House 96 0 (House concurred)

**Effective:** June 11, 1998