

SENATE BILL REPORT

ESSB 6568

As Passed Senate, February 19, 2002

Title: An act relating to commercial electronic mail.

Brief Description: Requiring the sender of commercial electronic mail to identify itself as a commercial message.

Sponsors: Senate Committee on Economic Development & Telecommunications (originally sponsored by Senators Finkbeiner, Benton, Gardner, Poulsen, T. Sheldon, Winsley, Oke, Hale and Rasmussen).

Brief History:

Committee Activity: Economic Development & Telecommunications: 2/1/02, 2/5/02 [DPS].

Passed Senate: 2/19/02, 49-0.

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6568 be substituted therefor, and the substitute bill do pass.

Signed by Senators T. Sheldon, Chair; B. Sheldon, Vice Chair; Fairley, Finkbeiner, McCaslin, Rossi and Stevens.

Staff: Kim Johnson (786-7486)

Background: The term SPAM refers to unsolicited bulk e-mail and can be commercial or non-commercial in nature. In 1998, the Legislature passed a law regulating commercial electronic mail messages. A commercial electronic mail message is defined as one sent for the purpose of promoting real property, goods, or services for sale or lease. Among other things, it is a violation of the Commercial Electronic Mail Act to send a commercial electronic mail message from a computer located in Washington or to a Washington resident that:

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

A recipient may bring a civil action against a sender who violates the Commercial Electronic Mail Act for the greater of \$500 or actual damages incurred. A violation of the Commercial Electronic Mail Act is also a violation of the Consumer Protection Act, which among other things, provides for treble damages, court costs, and attorney's fees.

Summary of Bill: The Commercial Electronic Mail Act is expanded to prohibit the transmission of a commercial electronic mail message from a computer located in Washington or to a Washington resident that does not include "ADV:" as the first four characters in the subject line.

Those persons with which the recipient has a current or prior business relationship are exempt from the requirement of including "ADV:" in the subject line of a commercial electronic mail message. "Current or prior business relationship" is defined.

On-line directories are included as sources that may be used to determine whether a recipient is a resident of Washington.

The bill provides that a violation of this section is also a violation of the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: SPAM is a huge problem; in fact, it is the number one complaint Internet Service Providers receive from their customers. With SPAM the entire cost is born by the service providers and customers, not the senders. The "ADV:" requirement is a reasonable regulation and a legitimate business can easily comply with the law.

Testimony Against: None.

Testified: PRO: Gary Gardner, WA Assn. of Internet Service Providers; Dave Horn, Attorney General's Office; Lew McMurrin, WA Software Assn.; David Lyon, Integrity Marketing; Joel Hodgell; Bennett Haselton; Thongsaveui Dammeun; Bruce Miller, WWW.AboutSpam.Com; Ben Livingston, Innovative Access; Bob Mack.