

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2752

Chapter 149, Laws of 1998

55th Legislature
1998 Regular Session

PROHIBITING UNSOLICITED ELECTRONIC MAIL

EFFECTIVE DATE: 6/11/98

Passed by the House March 7, 1998
Yeas 96 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 4, 1998
Yeas 42 Nays 0

BRAD OWEN
President of the Senate

Approved March 25, 1998

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2752** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 25, 1998 - 4:35 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2752

Passed Legislature - 1998 Regular Session

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

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)

Read first time 02/03/98. Referred to Committee on .

1 AN ACT Relating to electronic mail; adding a new chapter to Title
2 19 RCW; creating a new section; prescribing penalties; and providing an
3 expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the volume of
6 commercial electronic mail is growing, and the consumer protection
7 division of the attorney general's office reports an increasing number
8 of consumer complaints about commercial electronic mail. Interactive
9 computer service providers indicate that their systems sometimes cannot
10 handle the volume of commercial electronic mail being sent and that
11 filtering systems fail to screen out unsolicited commercial electronic
12 mail messages when senders use a third party's internet domain name
13 without the third party's permission, or otherwise misrepresent the
14 message's point of origin. The legislature seeks to provide some
15 immediate relief to interactive computer service providers by
16 prohibiting the sending of commercial electronic mail messages that use
17 a third party's internet domain name without the third party's
18 permission, misrepresent the message's point of origin, or contain
19 untrue or misleading information in the subject line.

1 The legislature also finds that the utilization of electronic mail
2 messages for commercial purposes merits further study. A select task
3 force should be created to explore technical, legal, and cost issues
4 surrounding the usage of electronic mail messages for commercial
5 purposes and to recommend to the legislature any potential legislation
6 needed for regulating commercial electronic mail messages.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

9 (1) "Commercial electronic mail message" means an electronic mail
10 message sent for the purpose of promoting real property, goods, or
11 services for sale or lease.

12 (2) "Electronic mail address" means a destination, commonly
13 expressed as a string of characters, to which electronic mail may be
14 sent or delivered.

15 (3) "Initiate the transmission" refers to the action by the
16 original sender of an electronic mail message, not to the action by any
17 intervening interactive computer service that may handle or retransmit
18 the message.

19 (4) "Interactive computer service" means any information service,
20 system, or access software provider that provides or enables computer
21 access by multiple users to a computer server, including specifically
22 a service or system that provides access to the internet and such
23 systems operated or services offered by libraries or educational
24 institutions.

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

30 NEW SECTION. **Sec. 3.** (1) No person, corporation, partnership, or
31 association may initiate the transmission of a commercial electronic
32 mail message from a computer located in Washington or to an electronic
33 mail address that the sender knows, or has reason to know, is held by
34 a Washington resident that:

35 (a) Uses a third party's internet domain name without permission of
36 the third party, or otherwise misrepresents any information in

1 identifying the point of origin or the transmission path of a
2 commercial electronic mail message; or

3 (b) Contains false or misleading information in the subject line.

4 (2) For purposes of this section, a person, corporation,
5 partnership, or association knows that the intended recipient of a
6 commercial electronic mail message is a Washington resident if that
7 information is available, upon request, from the registrant of the
8 internet domain name contained in the recipient's electronic mail
9 address.

10 NEW SECTION. **Sec. 4.** (1) It is a violation of the consumer
11 protection act, chapter 19.86 RCW, to initiate the transmission of a
12 commercial electronic mail message that:

13 (a) Uses a third party's internet domain name without permission of
14 the third party, or otherwise misrepresents any information in
15 identifying the point of origin or the transmission path of a
16 commercial electronic mail message; or

17 (b) Contains false or misleading information in the subject line.

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

25 NEW SECTION. **Sec. 5.** (1) Damages to the recipient of a commercial
26 electronic mail message sent in violation of this chapter are five
27 hundred dollars, or actual damages, whichever is greater.

28 (2) Damages to an interactive computer service resulting from a
29 violation of this chapter are one thousand dollars, or actual damages,
30 whichever is greater.

31 NEW SECTION. **Sec. 6.** (1) An interactive computer service may,
32 upon its own initiative, block the receipt or transmission through its
33 service of any commercial electronic mail that it reasonably believes
34 is, or will be, sent in violation of this chapter.

35 (2) No interactive computer service may be held liable for any
36 action voluntarily taken in good faith to block the receipt or

1 transmission through its service of any commercial electronic mail
2 which it reasonably believes is, or will be, sent in violation of this
3 chapter.

4 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
5 a new chapter in Title 19 RCW.

6 NEW SECTION. **Sec. 8.** (1) The select task force on commercial
7 electronic mail messages is hereby created. The select task force
8 shall:

9 (a) Identify technical, legal, and cost issues in relation to the
10 transmission and receipt of commercial electronic mail messages over
11 the internet;

12 (b) Evaluate whether existing laws are sufficient to resolve any
13 technical, legal, or financial problems created by the increasing
14 volume of commercial electronic mail messages;

15 (c) Review efforts being made by the federal government and other
16 states to regulate the transmission of commercial electronic mail
17 messages; and

18 (d) Prepare a report identifying policy options and recommendations
19 for any potential legislation needed to regulate commercial electronic
20 mail messages. The report shall be delivered to the house of
21 representatives energy and utilities committee by November 15, 1998.

22 (2) The select task force shall be composed of five members,
23 consisting of:

24 (a) Two members of the house of representatives, one from each of
25 the two largest caucuses, each member being a member of the house of
26 representatives energy and utilities committee, appointed by the
27 speaker of the house of representatives;

28 (b) Two members of the senate, one from each of the two largest
29 caucuses, each member being a member of the senate energy and utilities
30 committee, appointed by the president; and

31 (c) One person appointed by the governor.

32 (3) The select task force shall solicit input from interested
33 parties, including but not limited to, persons representing:

34 (a) Attorney general's consumer protection division;

35 (b) Internet service providers;

36 (c) Direct marketers;

37 (d) Manufacturers of electronic mail messaging software;

1 (e) Nonprofit organizations interested in free speech and other
2 civil liberty matters; and

3 (f) Internet users.

4 (4) Staff support for the select task force shall be provided by
5 the house of representatives office of program research and senate
6 committee services.

7 (5) This section expires December 31, 1998.

Passed the House March 7, 1998.

Passed the Senate March 4, 1998.

Approved by the Governor March 25, 1998.

Filed in Office of Secretary of State March 25, 1998.