

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1037

Chapter 289, Laws of 1999

56th Legislature
1999 Regular Session

COMMERCIAL ELECTRONIC MAIL--TRANSMISSION

EFFECTIVE DATE: 7/25/99

Passed by the House April 24, 1999
Yeas 95 Nays 1

JOHN E. PENNINGTON, JR.
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 23, 1999
Yeas 44 Nays 2

BRAD OWEN
President of the Senate

Approved May 13, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1037** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 13, 1999 - 3:39 p.m.

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1037

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By House Committee on Appropriations (originally sponsored by
Representatives Bush, Morris and Ruderman)

Read first time 03/08/1999.

1 AN ACT Relating to commercial electronic mail; amending RCW
2 19.190.010, 19.190.020, and 19.190.030; and repealing RCW 19.190.005.

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

4 **Sec. 1.** RCW 19.190.010 and 1998 c 149 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Assist the transmission" means actions taken by a person to
9 provide substantial assistance or support which enables any person to
10 formulate, compose, send, originate, initiate, or transmit a
11 commercial electronic mail message when the person providing the
12 assistance knows or consciously avoids knowing that the initiator of
13 the commercial electronic mail message is engaged, or intends to
14 engage, in any practice that violates the consumer protection act.

15 (2) "Commercial electronic mail message" means an electronic mail
16 message sent for the purpose of promoting real property, goods, or
17 services for sale or lease. It does not mean an electronic mail
18 message to which an interactive computer service provider has attached

1 an advertisement in exchange for free use of an electronic mail
2 account, when the sender has agreed to such an arrangement.

3 ((+2)) (3) "Electronic mail address" means a destination, commonly
4 expressed as a string of characters, to which electronic mail may be
5 sent or delivered.

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

14 ((+4)) (5) "Interactive computer service" means any information
15 service, system, or access software provider that provides or enables
16 computer access by multiple users to a computer server, including
17 specifically a service or system that provides access to the internet
18 and such systems operated or services offered by libraries or
19 educational institutions.

20 ((+5)) (6) "Internet domain name" refers to a globally unique,
21 hierarchical reference to an internet host or service, assigned through
22 centralized internet naming authorities, comprising a series of
23 character strings separated by periods, with the right-most string
24 specifying the top of the hierarchy.

25 (7) "Person" means a person, corporation, partnership, or
26 association.

27 **Sec. 2.** RCW 19.190.020 and 1998 c 149 s 3 are each amended to read
28 as follows:

29 (1) No person(~~(, corporation, partnership, or association)~~) may
30 initiate the transmission, conspire with another to initiate the
31 transmission, or assist 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 or obscures any information
37 in identifying the point of origin or the transmission path of a
38 commercial electronic mail message; or

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

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

8 **Sec. 3.** RCW 19.190.030 and 1998 c 149 s 4 are each amended to read
9 as follows:

10 (1) It is a violation of the consumer protection act, chapter 19.86
11 RCW, to conspire with another person to initiate the transmission or to
12 initiate the transmission of a 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 or obscures any information
15 in 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) It is a violation of the consumer protection act, chapter 19.86
19 RCW, to assist in the transmission of a commercial electronic mail
20 message, when the person providing the assistance knows, or consciously
21 avoids knowing, that the initiator of the commercial electronic mail
22 message is engaged, or intends to engage, in any act or practice that
23 violates the consumer protection act.

24 (3) The legislature finds that the practices covered by this
25 chapter are matters vitally affecting the public interest for the
26 purpose of applying the consumer protection act, chapter 19.86 RCW. A
27 violation of this chapter is not reasonable in relation to the
28 development and preservation of business and is an unfair or deceptive
29 act in trade or commerce and an unfair method of competition for the
30 purpose of applying the consumer protection act, chapter 19.86 RCW.

31 NEW SECTION. **Sec. 4.** RCW 19.190.005 (Findings) and 1998 c 149 s
32 1 are each repealed.

Passed the House April 24, 1999.

Passed the Senate April 23, 1999.

Approved by the Governor May 13, 1999.

Filed in Office of Secretary of State May 13, 1999.