

# SENATE BILL REPORT

## SB 5734

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As of February 21, 2003

**Title:** An act relating to commercial electronic mail.

**Brief Description:** Regulating commercial electronic mail.

**Sponsors:** Senators Finkbeiner, Reardon, Schmidt, Poulsen, Eide, Stevens, Winsley and Esser.

**Brief History:**

**Committee Activity:** Technology & Communications: 2/24/03.

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### SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

**Staff:** Dario de la Rosa (786-7484)

**Background:** In 1998, Washington passed the Commercial Electronic Mail Act regulating commercial spam. Spam refers to unsolicited bulk electronic mail and can be commercial or non-commercial in nature. A commercial spam message is defined as one sent for the purpose of promoting real property, goods, or services for sale or lease. Commercial spam that places false or misleading information in the subject line of the message, uses a third party's domain name without permission or misrepresents any information in identifying the point of origin or the transmission path of the message, violates Washington law.

A recipient of commercial spam in violation of Washington law may bring a civil action against the sender for the greater of \$500 or actual damages incurred.

**Summary of Substitute Bill:** The Commercial Electronic Mail Act is expanded. Senders of commercial spam must include "ADV:" as the first four characters in the subject line of the message. Senders of commercial spam who have an established business relationship with the recipient of the commercial spam are exempt from this requirement. Violations of this requirement are punishable by the greater of \$10 for each message received, or actual damages. Maximum damages are \$25,000 for each day that messages from that sender are received.

Interactive computer services may not be held liable for acting as an intermediary between the sender and the recipient of commercial spam sent in violation of the law, or for providing transmission over its computer network or facilities of commercial spam that is sent in violation of the law.

**Substitute Bill Compared to Original Bill:** The original bill was not considered.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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