
**Innovation, Technology & Economic
Development Committee**

HB 2396

Brief Description: Concerning the regulation of bot communication on public-facing internet web sites.

Sponsors: Representatives Hudgins, Tarleton and Wylie.

Brief Summary of Bill

- Provides that it is unlawful to use a bot to communicate to a person in Washington to incentivize a commercial transaction or engage in political advertising, under certain conditions, without providing clear disclosure that the communication is from a bot.
- Requires online platforms to enable users to report suspected violations which platforms must investigate and respond to within 72 hours.

Hearing Date: 1/15/20

Staff: Kyle Raymond (786-7190).

Background:

Consumer Protection Act.

Under the state's Consumer Protection Act (CPA), a variety of business practices are declared unlawful. These practices include engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of commerce and monopolizing trade or commerce.

The CPA prohibits unfair methods of competition and unfair or deceptive practices in the conduct of any trade or commerce. The Attorney General may investigate and prosecute claims under the CPA on behalf of the state or individuals in the state.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person injured by a violation of the CPA may bring a private cause of action for injunctive relief and the recovery of actual damages and reasonable attorneys' fees. Recovery may also include triple damages, in some circumstances. In addition, the CPA allows the Attorney General to bring a CPA action in the name of the state or on behalf of persons residing in the state. An action by the Attorney General may seek to prevent or restrain violations of the act and may seek restoration for persons injured by violation of the CPA.

The Public Disclosure Commission.

The Public Disclosure Commission (PDC) enforces the provisions of the campaign finance disclosure law and has authority to develop procedures, adopt rules, investigate complaints, and impose civil penalties for violations. The PDC is empowered to provide access to information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates.

The PDC may initiate its own investigations of violations of campaign finance and disclosure statutes or investigate complaints filed by any person. The PDC may conduct audits and field investigations as it deems appropriate, and issue subpoenas. Upon receiving a complaint, the PDC may:

- dismiss or otherwise resolve the complaint as appropriate after conducting a preliminary review;
- initiate an investigation to determine if a violation has occurred, conduct hearings, and issue and enforce an appropriate order, in accordance with the administrative procedure process; or
- refer the matter to the Attorney General.

If the PDC initiates an investigation, the initial hearing must occur within 90 days of the complaint being filed.

Summary of Bill:

Disclosure of Bot Communication.

A person is prohibited from using a bot to communicate or interact with another person in Washington online with the intention of misleading the other person about its artificial identity for the purposes of knowingly deceiving the person about the content of the communication to either: (1) incentivize a purchase or sale of goods or services in a commercial transaction; or (2) engage in political advertising. A person using a bot is not liable if the person discloses that the communication is from a bot.

The bot disclosure provided must be clear, conspicuous, and reasonably designed to inform persons with whom the bot communicates or interacts that the communication is from a bot.

Online Platform Requirements. Online platforms are required to enable users to identify and report bots that users suspect of not being properly disclosed. The platforms must investigate and determine whether or not to disclose that the bot is not a natural person or remove the bot within 72 hours of receipt of the user request.

Upon request of the Office of the Attorney General, an online platform shall provide reports detailing notices received and actions taken in response.

Other Provisions. A violation related to a bot communication that incentivizes the purchase or sale of goods or services in a commercial transaction is a violation of the Consumer Protection Act.

A violation related to a political advertising bot communication is enforced by the Public Disclosure Commission under the state's campaign finance disclosure law.

A severability clause is included.

Definitions. The following terms are defined:

"Bot" means an automated online account where all or substantially all of the actions or posts of that account are not the result of a person.

"Online" means appearing on any public-facing internet web site, web application, or digital application, including a social network or publication.

"Online platform" means any public-facing internet web site, web application, or digital application, including a social network or publication, that has 10 million or more unique monthly United States visitors or users for a majority of months during the preceding 12 months.

"Person" means a natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, government, governmental subdivision or agency, or other legal entity or any combination thereof.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect January 1, 2021.