

SENATE BILL REPORT

HB 2396

As Reported by Senate Committee On:
Environment, Energy & Technology, February 27, 2020

Title: An act relating to the regulation of bot communication on public-facing internet web sites.

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

Sponsors: Representatives Hudgins, Tarleton and Wylie.

Brief History: Passed House: 2/17/20, 70-28.

Committee Activity: Environment, Energy & Technology: 2/25/20, 2/27/20 [DPA-WM, DNP].

Brief Summary of Amended Bill

- Prohibits the use of a bot to interact with a person in Washington online to incentivize a commercial transaction or to engage in political advertising without disclosure of the use.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Sheldon, Assistant Ranking Member, Energy & Technology; Das, Hobbs, Liias, McCoy, Nguyen, Stanford and Wellman.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Member; Fortunato, Assistant Ranking Member, Environment; Brown, Rivers and Short.

Staff: Angela Kleis (786-7469)

Background: Public Disclosure Commission. The Public Disclosure Commission (PDC) is empowered to provide public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates. It also ensures compliance with campaign finance and disclosure laws, including initiating an

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investigation to determine whether a violation has occurred. One of the five main elements of these laws is political advertising, which requires disclosure of the ad sponsor.

Summary of Amended Bill: Prohibitions. It is unlawful for any person to use a bot to interact with another person in Washington online with the intent to mislead the other person about its artificial identity for the purpose of knowingly deceiving the person about the content of the communication to:

- incentivize a commercial transaction; or
- engage in political advertising.

Disclosure must be clear, conspicuous, and reasonably designed to inform persons with whom the bot interacts that it is a bot.

Enforcement. A violation of the provisions related to a political advertising bot communication is enforced under the campaign finance and disclosure laws.

Other. There is a severability clause. Specified duties and obligations are cumulative with any other duties or obligations imposed by any other law. The requirements of this act do not impose a duty on service providers of online platforms, including web hosting and internet service providers.

EFFECT OF ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE AMENDMENT(S):

- Removes the requirement for online platforms to enable a user to report a suspected bot communication that violates bot disclosure requirements.
- Removes corresponding online platform requirements related to investigating and responding to a user report of a suspected bot communication that violates bot disclosure requirements.
- Provides that the requirements in the chapter do not impose a duty on service providers of online platforms, including web hosting and internet service providers.
- Removes provisions related to the enforcement of a commercial bot disclosure violation under the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on House Bill: *The committee recommended a different version of the bill than what was heard.* PRO: With regards to the political ad bot communications, this bill fosters informed citizen engagement. Bots amplify the spread of misinformation and are an ongoing threat to the integrity of the political process.

CON: Consumers are already afforded the protections outlined in bill under current law. There are unclear requirements on responding to notices and providing a report on notices and actions taken to the AG.

OTHER: We have concerns related to Constitutional protections regarding free speech and are happy to work with the sponsor.

Persons Testifying: PRO: Phyllis Farrell, Washington League of Women.

CON: Samantha Kersul, TechNet, Executive Director Washington and the Northwest; Rose Feliciano, Internet Association, Director, Northwest Region; Anna Powell, CompTIA, Director, Western Region.

OTHER: Sean Flynn, PDC.

Persons Signed In To Testify But Not Testifying: No one.