

106TH CONGRESS  
1ST SESSION

# H. R. 1910

To prohibit abuses in the use of unsolicited bulk electronic mail, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1999

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit abuses in the use of unsolicited bulk electronic mail, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE**

4 This Act may be cited as the “E-Mail User Protection  
5 Act”.

1 **SEC. 2. LIMITATIONS ON THE USE OF UNSOLICITED BULK**  
2 **E-MAIL.**

3 (a) PROHIBITION.—It shall be unlawful for any per-  
4 son, using any means or instrumentality of, or affecting,  
5 interstate or foreign commerce—

6 (1) to initiate the transmission of a unsolicited  
7 bulk electronic mail message that contains a false,  
8 fictitious, or misappropriated name of the sender,  
9 electronic mail return address, or name and phone  
10 number of a telephone contact person;

11 (2) to initiate the transmission of a unsolicited  
12 bulk electronic mail message to an interactive com-  
13 puter service with knowledge that such message fal-  
14 sifies an Internet domain, header information, date  
15 or time stamp, originating e-mail address or other  
16 identifier;

17 (3) to initiate the transmission of an unsolicited  
18 bulk electronic mail message and to fail to comply  
19 with the request of the recipient of the message, de-  
20 livered to the sender's electronic mail address, that  
21 the recipient does not wish to receive such messages;

22 (4) to use, create, sell, or distribute any com-  
23 puter software that is primarily designed to create,  
24 on an electronic mail message, false Internet do-  
25 main, header information, date or time stamp, origi-  
26 nating e-mail address or other identifier.

1 (b) VIOLATIONS.—

2 (1) CIVIL FINES.—Whoever knowingly violates  
3 subsection (a) shall be fined not more than the  
4 greater of (1) \$50 for each message delivered in vio-  
5 lation of such subsection, or (2) \$10,000 for each  
6 day the violation continues.

7 (2) CRIMINAL SANCTIONS.—Whoever—

8 (A) intentionally violates subsection (a)(1)  
9 by misappropriating the name or electronic mail  
10 return address of another person; or

11 (B) intentionally violates subsection (a)(3)  
12 by initiating the transmission of unsolicited  
13 electronic mail to an individual who has specifi-  
14 cally communicated to the violator that individ-  
15 ual's desire not to receive such mail;

16 shall be fined under title 18, United States Code, or  
17 imprisoned not more than one year, or both.

18 **SEC. 3. ENFORCEMENT**

19 The Federal Trade Commission shall have the power  
20 to enforce a violation of section 2 as an unfair or deceptive  
21 act or practice prescribed under section 18(a)(1)(B) of the  
22 Federal Trade Commission Act (15 U.S.C. 57(a)(1)(B)).

23 **SEC. 4. RIGHT OF ACTION AND RECOVERY OF CIVIL DAM-**  
24 **AGES.**

25 (a) RIGHT OF ACTION.—

1           (1) ACTIONS BY INTERACTIVE COMPUTER SERV-  
2           ICES.—Any interactive computer service that has  
3           been adversely affected by a violation of section  
4           2(a)(2) may recover in a civil action from the person  
5           or entity that engaged in such violation such relief  
6           as may be appropriate.

7           (2) ACTIONS BY RECIPIENTS.—Any person or  
8           entity that has received an unsolicited bulk email  
9           and been adversely affected by a violation of section  
10          2 may recover in a civil action from the person or  
11          entity that engaged in such violation such relief as  
12          may be appropriate.

13          (b) RELIEF.—

14               (1) ACTIONS BY INTERACTIVE COMPUTER SERV-  
15               ICES.—In an action under subsection (a)(1), appro-  
16               priate relief includes—

17                       (A) such preliminary and other equitable  
18                       or declaratory relief as may be appropriate, in-  
19                       cluding an injunction against future violations;

20                       (B) actual monetary loss from a violation,  
21                       statutory damages of not more than the greater  
22                       of —

23                               (i) \$50 for each message delivered in  
24                               violation of section 2(a)(2); or

1 (ii) \$10,000 for each day during  
2 which the violation continues; and

3 (C) a reasonable attorney's fee and other  
4 litigation costs reasonably incurred.

5 (2) ACTIONS BY RECIPIENTS.—In an action  
6 under subsection (a)(2), appropriate relief  
7 includes—

8 (A) such preliminary and other equitable  
9 or declaratory relief as may be appropriate, in-  
10 cluding an injunction against future violations;

11 (B) actual monetary loss from a violation,  
12 statutory damages of \$50 for each message de-  
13 livered in violation of section 2(a)(2); and

14 (C) a reasonable attorney's fee and other  
15 litigation costs reasonably incurred.

16 **SEC. 5. DEFINITIONS.**

17 For purposes of this Act:

18 (1) UNSOLICITED BULK ELECTRONIC MAIL  
19 MESSAGE.—The term “unsolicited bulk electronic  
20 mail message” means any electronic mail message  
21 initiated by any person for commercial purposes, ex-  
22 cept for—

23 (A) electronic mail sent to others with  
24 whom such person has a prior relationship, in-  
25 cluding a prior business relationship; or

1           (B) electronic mail sent to a recipient if  
2           such recipient, or someone authorized by them,  
3           has at any time affirmatively requested to re-  
4           ceive communications from that source.

5           (2) ELECTRONIC MAIL ADDRESS.—The term  
6           “electronic mail address” means a destination on the  
7           Internet (commonly expressed as a string of char-  
8           acters) to which electronic mail can be sent or deliv-  
9           ered.

10          (3) INTERACTIVE COMPUTER SERVICE.—The  
11          term “interactive computer service” has the meaning  
12          given that term in section 230(e)(2) of the Commu-  
13          nications Act of 1934 (47 U.S.C. 230(e)(2)).

14          (4) INTERNET DOMAIN.—The term “Internet  
15          domain” means a specific computer system (com-  
16          monly referred to as a “host”) or collection of com-  
17          puter systems that the Internet can reference, that  
18          are assigned a specific reference point on the Inter-  
19          net (commonly referred to as an “Internet domain  
20          name”), and that are registered with an organiza-  
21          tion that the Internet industry recognizes as a reg-  
22          istrar of Internet domains.

23          (5) INITIATES THE TRANSMISSION.—The term  
24          “initiates the transmission,” in the case of an elec-  
25          tronic mail message, means to originate the elec-

1       tronic mail message, and excludes the actions of any  
2       interactive computer service whose facilities or serv-  
3       ices are used by another person to transmit, relay,  
4       or otherwise handle such message.

5 **SEC. 6. EFFECTIVE DATE.**

6       The provisions of this Act shall take effect 45 days  
7 after the date of enactment of this Act.

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