

106TH CONGRESS
1ST SESSION

H. R. 1910

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

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

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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