

WASHINGTON

Portions of Chapter 19.190 of the *Revised Code of Washington* govern the transmission of commercial electronic mail. Those code sections:

- Apply to email sent from a computer located in Washington or to an address that the sender knows, or has reason to know, belongs to a Washington resident;
- Forbid a sender to use another person's domain name without permission, or to falsify the subject line or routing information of an email;
- Classify a violation, or helping another person commit a violation, as a violation of the Consumer Protection Act; and
- Entitle a recipient or service provider to sue a violator for damages.

Wash. Rev. Code Ann.

§19.190.010. Definitions Pertaining to Commercial Electronic Mail

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Assist the transmission" means actions taken by a person to provide substantial assistance or support which enables any person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message or a commercial electronic text message when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial electronic mail message or the commercial electronic text message is engaged, or intends to engage, in any practice that violates the consumer protection act. "Assist the transmission" does not include any of the following: (a) Activities of an electronic mail service provider or other entity who provides intermediary transmission service in sending or receiving electronic mail, or provides to users of electronic mail services the ability to send, receive, or compose electronic mail; or (b) activities of any entity related to the design, manufacture, or distribution of any technology, product, or component that has a commercially significant use other than to violate or circumvent this section.

(2) "Commercial electronic mail message" means an electronic mail message sent for the purpose of promoting real property, goods, or services for sale or lease. It does not mean an electronic mail message to which an interactive computer service provider has attached an advertisement in exchange for free use of an electronic mail account, when the sender has agreed to such an arrangement.

(3) "Commercial electronic text message" means an electronic text message sent to promote real property, goods, or services for sale or lease.

(4) "Electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

(5) "Electronic mail message" means an electronic message sent to an electronic mail address and a reference to an internet domain, whether or not displayed, to which an electronic mail message can be sent or delivered.

(6) "Electronic text message" means a text message sent to a cellular telephone or

pager equipped with short message service or any similar capability, whether the message is initiated as a short message service message or as an electronic mail message.

(7) "Initiate the transmission" refers to the action by the original sender of an electronic mail message or an electronic text message, not to the action by any intervening interactive computer service that may handle or retransmit the message, unless such intervening interactive computer service assists in the transmission of an electronic mail message when it knows, or consciously avoids knowing, that the person initiating the transmission is engaged, or intends to engage, in any act or practice that violates the consumer protection act.

(8) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and such systems operated or services offered by libraries or educational institutions.

(9) "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, that comprise the interconnected world wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(10) "Internet domain name" refers to a globally unique, hierarchical reference to an internet host or service, assigned through centralized internet naming authorities, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation, or any other legal or commercial entity.

(12) "Personally identifying information" means an individual's: (a) Social security number; (b) driver's license number; (c) bank account number; (d) credit or debit card number; (e) personal identification number; (f) automated or electronic signature; (g) unique biometric data; (h) account passwords; or (i) any other piece of information that can be used to access an individual's financial accounts or to obtain goods or services.

(13) "Web page" means a location, with respect to the world wide web, that has a single uniform resource locator or other single location with respect to the internet.

Created by Chapter 149, §2, Laws of 1998, effective June 11, 1998. Amended by Chapter 289, §1, Laws of 1999, effective July 25, 1999; Chapter 137, §2, Laws of 2003, effective July 27, 2003; and Chapter 378, §1, Laws of 2005, effective July 24, 2005.

§19.190.020. Fraudulent Commercial Electronic Mail

(1) No person may initiate the transmission, conspire with another to initiate the transmission, or assist the transmission, of a commercial electronic mail message from a computer located in Washington or to an electronic mail address that the sender knows, or

has reason to know, is held by a Washington resident that:

1. (a) Uses a third party's internet domain name without permission of the third party, or otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of a commercial electronic mail message; or
1. (b) Contains false or misleading information in the subject line.

(2) For purposes of this section, a person knows that the intended recipient of a commercial electronic mail message is a Washington resident if that information is available, upon request, from the registrant of the internet domain name contained in the recipient's electronic mail address.

Created by Chapter 149, §3, Laws of 1998, effective June 11, 1998. Amended by Chapter 289, §2, Laws of 1999, effective July 25, 1999.

§19.190.030. Unlawful Conduct Classified as Consumer Protection Act Violation

(1) It is a violation of the consumer protection act to conspire with another person to initiate the transmission or to initiate the transmission (sic) of a commercial electronic mail message that:

1. (a) Uses a third party's internet domain name without permission of the third party, or otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of a commercial electronic mail message; or
1. (b) Contains false or misleading information in the subject line.

(2) It is a violation of the consumer protection act to assist in the transmission of a commercial electronic mail message, when the person providing the assistance knows, or consciously avoids knowing, that the initiator of the commercial electronic mail message is engaged, or intends to engage, in any act or practice that violates the consumer protection act.

(3) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act.

Created by Chapter 149, §4, Laws of 1998, effective June 11, 1998. Amended by Chapter 289, §3, Laws of 1999, effective July 25, 1999.

§19.190.040. Recipients' and Service Providers' Remedies

(1) Damages to the recipient of a commercial electronic mail message or a commercial electronic text message sent in violation of this chapter are \$500, or actual damages, whichever is greater.

(2) Damages to an interactive computer service resulting from a violation of this chapter are \$1,000, or actual damages, whichever is greater.

Created by Chapter 149, §5, Laws of 1998, effective June 11, 1998. Amended by Chapter 137, §5, Laws of 2003, effective July 27, 2003.

§19.190.050. Service Provider's Rights

(1) An interactive computer service may, upon its own initiative, block the receipt or transmission through its service of any commercial electronic mail that it reasonably believes is, or will be, sent in violation of this chapter.

(2) No interactive computer service may be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any commercial electronic mail which it reasonably believes is, or will be, sent in violation of this chapter.
Created by Chapter 149, §6, Laws of 1998, effective June 11, 1998.