SENATE BILL REPORT
SB 5976

As of January 26, 2026

Title: An act relating to modifying the Washington commercial electronic mail act.

Brief Description: Modifying the Washington commercial electronic mail act.

Sponsors: Senators Harris, Liias and Nobles.

Brief History:
Committee Activity: Business, Trade & Economic Development: 1/29/26.

Brief Summary of Bill

- Modifies the Commercial Electronic Mail Act (Act) by narrowing who can seek damages under the Act, and when a commercial email subject line is considered misleading.
- Repeals the *per se* violation of the Consumer Protection Act for commercial emails in violation of the Act.

SENATE COMMITTEE ON BUSINESS, TRADE & ECONOMIC DEVELOPMENT

Staff: William Bridges (786-7312)

Background: Commercial Electronic Mail Act. Enacted in 1998, the Commercial Electronic Mail Act (Act) regulates commercial email. A commercial email is one that is sent for the purpose of promoting real property, goods, or services for sale or lease. It is illegal under the Act for a person to send, conspire with another to send, or assist in the transmission of a commercial email from a computer in Washington or to an email address that the sender knows, or has reason to know, is held by a Washington resident that:

- uses a third party's internet domain name without permission;
- misrepresents or obscures the point of origin or transmission path; or
- contains a false or misleading subject line.

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

Enforcement of the Commercial Electronic Mail Act. A recipient of commercial email in violation of this Act may seek statutory damages of $500. The recipient may bring a per se claim under the Consumer Protection Act (CPA).

Consumer Protection Act. The CPA allows a person injured by an unfair or deceptive practice to bring a private cause of action for actual damages, injunctive relief, reasonable attorney's fees, and treble damages. The Office of the Attorney General may investigate and prosecute claims under the CPA on behalf of the state or individuals in the state.

To prevail on a CPA claim, a plaintiff must prove five elements:

- an unfair or deceptive act or practice occurred;
- the act or practice occurred in trade or commerce;
- there is a public interest impact;
- there is an injury to the plaintiff's business or property; and
- there is causation.

When the Legislature declares a specific act or practice a *per se* violation of the CPA, a plaintiff need only to show injury and causation to prevail.

Summary of Bill: Narrowing the Application of the Commercial Electronic Mail Act. A sender must have a reliable basis, rather than reason, to know that an email is held by a Washington resident for the sender to be in violation of the Act. A commercial email's subject line must be likely to mislead a recipient, acting reasonably, about a fact material to the relevant transaction and be material to the recipient completing the transaction.

A recipient of a commercial email in violation of the Act may only claim damages if they received, reviewed, and detrimentally relied upon the email, rather than just received the email.

Repealing Specified Per Se Violations of the Consumer Protection Act. The following *per se* CPA violations are repealed:

- initiating or conspiring with another person to initiate the transmission of a commercial email that:
    1. uses a third party internet domain name without the third party's consent;
    2. misrepresents or obscures any information in identifying the point of origin or transmission path of the email; or
    3. contains false or misleading information in the subject line; and
- assisting in the transmission of a commercial email when the person knows, or consciously avoids knowing, that the initiator of the commercial email is engaged, or intends to engage, in any act or practice that violates the CPA.

Lawsuits filed on or after the effective date are subject to the provisions, regardless of when the conduct occurred.

Appropriation: None.

Fiscal Note: Not requested.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.